PRESIDENT'S SECRETARIAT

(LIBRARY)

Accn. No. C 5423 Class No. 342

The book should be returned on or before the date last stamped below.

RO. 51. IV
4000

GOVERNMENT OF INDIA

REFORMS OFFICE

THE UNREPEALED CENTRAL ACTS

WITH

CHRONOLOGICAL TABLE AND INDEX

VOLUME IV

From 1898 to 1907, both inclusive

PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI.
PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, SIMLA.
1938.

Price : Rs. 3-14-0 or 6s. 3d.

L42RO

List of Agents in India from whom Government of India Publications are available.

(a) PROVINCIAL GOVERNMENT BOOK DEPOTS.

MADRAS :—Superintendent, Government Press, Mount Road, Madras.

BOMBAY :—Superintendent, Government Printing and Stationery, Queen's Road, Bombay.

SIND :—Manager, Sind Government Book Depot and Record Office, Karachi (Sadar).

UNITED PROVINCES :—Superintendent, Government Press, Allahabad.

PUNJAB :—Superintendent, Government Printing, Punjab, Lahore.

CENTRAL PROVINCES :—Superintendent, Government Printing, Central Provinces, Nagpur.

ASSAM :—Superintendent, Assam Secretariat Press, Shillong.

BIHAR :—Superintendent, Government Printing, P. O. Gulzarbagh, Patna.

NORTH-WEST FRONTIER PROVINCE :—Manager, Government Printing and Stationery, Peshawar.

ORISSA :—Press Officer, Secretariat, Cuttack.

(b) PRIVATE BOOKSELLERS.

Advani Bros., P. O. Box 100, Cawnpore.
Aero Stores, Karachi.*
Banthiya & Co., Ltd., Station Road, Ajmer.
Bengal Flying Club, Dum Dum Cantt.*
Bhawnani & Sons, New Delhi.
Bombay Book Depot, Charni Road, Girgaon, Bombay.
Bhatia Book Depot, Sadar Bazar, Ranikhet.
Book Company, Calcutta.
Booklovers' Resort, Taikad, Trivandrum, South India.
Burma Book Club, Ltd., Rangoon.
Butterworth & Co. (India), Ltd., Calcutta.
Chatterjee & Co., 3, Bacharam Chatterjee Lane, Calcutta.
Chukervertty, Chatterjee & Co., Ltd., 15, College Square, Calcutta.
City Book Club, 98, Phayre Street, Rangoon.
Das Gupta & Co., 54/3, College Street, Calcutta.
Dastane Brothers, Home Service, 456, Raviwar Peth, Poona 2.
Delhi and U. P. Flying Club, Ltd., Delhi.*
English Book Depot, Ferozepore.
English Book Depot, Taj Road, Agra.
English Bookstall, Karachi.
English Book Store, Abbottabad, N. W. F. P.
Fakir Chand Marwah, Peshawar Cantt.
Fono Book Agency, Simla.
Gautama Brothers & Co., Ltd., Meston Road, Cawnpore.
Higginbothams, Madras.
Hindu Library, 137/F, Balaram De Street, Calcutta.
H. L. College of Commerce, Co-operative Stores, Ltd., Ahmedabad.
Hyderabad Book Depot, Chaderghat, Hyderabad (Deccan).
Imperial Book Depot and Press, near Jama Masjid (Machhliwalan), Delhi.
Indian Army Book Depot, Dayalbagh, Agra.
Indian Book Shop, Benares City.
Indian School Supply Depot, Central Avenue, South, P. O. Dharamtala, Calcutta.
Insurance Publicity Co., Ltd., Lahore.
International Book Service, Poona 4.
Jacques & Co., Kamptee Road, Nagpur, Messrs. Neston.
Jaina & Bros., Mori Gate, Delhi and Connaught Place, New Delhi, Messrs. J. M.
Kamala Book Depot, 15, College Square, Calcutta.
Karnataka Publishing House, Bangalore City.
Keale & Co., 65, Britto Road, Karachi Sadar.
Keshao Book Stall, Khadi Bazar, Belgaum.
Kitabistan, 17-A, City Road, Allahabad.
Krishnaswami & Co., Teppakulam P. O., Trichinopoly Fort, Messrs. S.
Lahiri & Co., Calcutta, Messrs. S. K.
Local Self-Govt. Institute, Bombay.
London Book Co. (India), Arbab Road, Peshawar, Murree, Nowshera, Rawalpindi.
Mackwin & Co., Booksellers, Stationers and News Agents, Inverarity Road, Off Esphenstone Street, Karachi Sadar.
Malik & Sons, Sialkot City.
Mathur, B. S., Bookseller, Civil Lines, Jodhpur.
Messrs. U. P. Malhotra & Co., Post Box No. 94, Lahore.
Minerva Book Shop, Anarkali Street, Lahore.
Modern Book Depot, Bazar Road, Sialkot Cantonment.
Modern Book Depot, Napier Road, Jullundur Cantt., and Careers, Mohini Road, Lahore.
Mohanlal Dossabhai Shah, Rajkot.
Mohindra Bros., Lashkar, Gwalior State, Messrs.
Nandkishore & Bros., Chowk, Benares City.
New Book Co., " Kitab Mahal ", 192, Hornby Road, Bombay.
Newman & Co., Ltd., Calcutta, Messrs. W.
Oxford Book and Stationery Company, Delhi, Lahore, Simla, Meerut and Calcutta.
Parikh & Co., Baroda, Messrs. B.
Pioneer Book Supply Co., 20, Shib Narayan Das Lane, Calcutta, and 219, Cloth Market, Delhi.
Popular Book Depot, Grant Road, Bombay.
Punjab Religious Book Society, Lahore.
Raghunath Prasad & Sons, Patna City.
Rama Krishna & Sons, Booksellers, Anarkali, Lahore.
Ram Krishna Bros., Opposite Bishrambag, Poona City.
Ram Narain Lal, Katra, Allahabad.
Ramesh Book Depot & Stationery Mart, Kashmere Gate, Delhi.
Ray & Sons, 43, K. & L. Edwardes Road, Rawalpindi, Murree and Peshawar, Messrs. J.
Roy Chowdhury & Co., 72, Harrison Road, Calcutta, Messrs. N. M.
Sharada Mandir, Ltd., Nai Sarak, Delhi.
Saraswati Book Depot, 15, Lady Hardinge Road, New Delhi.
Sarcar & Sons, 15, College Square, Calcutta, Messrs. M. C.
Sarkar & Co., Ltd., 6, Hastings Street, and 8/2, Hastings Street, Calcutta, Messrs. P. C.
Standard Bookstall, Karachi.
Standard Bookstall, Quetta.
Standard Book Depot, Lahore, Dalhousie and Delhi.
Standard Law Book Society, 69, Harrison Road, Calcutta.
Tara & Sons, Razmak (India), Messrs. B. S.
Taraporevala Sons & Co., Bombay, Messrs. D. B.
Thacker & Co., Ltd., Bombay.
Thacker, Spink & Co., Ltd., Calcutta and Simla.
Tripathi & Co., Booksellers, Princes Street, Kalbadevi Road, Bombay, Messrs. N. M.
University Book Agency, Kacheri Road, Lahore.
Upper India Publishing House, Ltd., Literature Palace, Ammuddaula Park, Lucknow.
Varadachary & Co., Madras, Messrs. P.
Venkatasubban, A., Law Bookseller, Vellore.
Wheeler & Co., Allahabad, Calcutta and Bombay, Messrs. A. H.
Young Man & Co., Egerton Road, Delhi.

*Agents for publications on Aviation only.

CORRIGENDA.

Page 39 : In footnote 1, *omit* the second " the ".

" 41 : In line 26, *after* " directions of " *insert* " a ".

" 43 : In line 19, *for* " Sessions " *read* " Session ".

" 49 : In line 32, *for* " High Court " *read* " A High Court ".

" 59 : In line 32, *after* " by " *insert* " a ".

" 60 : In line 16, *after* " other " *insert* " officer ".

" 64 : In line 23, *for* " fixed " *read* " affixed ".

" 75 : In line 29, *for* " matter " *read* " manner ".

" 85 : In line 3, *after* " with " *insert* " the ".

" 87 : In line 27, *after* " extended by " *insert* " the ".

" 109 : In line 7, *for* the first " the " *read* " in " ; and in line 9, *after* " inquired into " *insert* " in ".

" 110 : In line 28, *for* " Addl." *read* " Additional " and *for* " Asstt." *read* " Assistant ".

" 127 : In line 14, *after* " of " *insert* " the ".

" 139 : In line 10, *for* " the effect " *read* " that effect ".

" 140 : In line 35, *for* " grounds " *read* " ground ".

" 154 : In line 9, *for* " junior " *read* " juror or ".

" 161 : In line 5, *for* " the " *read* " that ".

" 167 : In line 17, *for* " that " *read* " the ".

" 208 : In line 2, *for* " to the " *read* " to be ".

" 209 : In line 17, *for* " ground " *read* " grounds ".

" 221 : In line 10, *for* " him " *read* " [3a] [it] " ; and *after* footnote 3, *insert* :—

" [3a] Subs. by the A. O. *for* ' him ' ".

" 225 : In line 19, *for* " recommended " *read* " recommenced ".

" 228 : In line 23, *for* " of statement " *read* " or statement ".

" 353 : In footnote 2, *for* " s. 160, *ibid.*" *read* " s. 160 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923) ".

PREFACE

The Acts included in this Volume are printed generally as modified up to the 31st December, 1937 ; but the repeals recently effected by the Repealing Act, 1938 (I of 1938), have also been taken into account in preparing the text as well as the Chronological Table.

K. SUNDARAM, I.C.S.,
Officer on Special Duty,
Reforms Office,
Government of India.

NEW DELHI,
1st April, 1938.

LIST OF ABBREVIATIONS USED.

A. O.	for Government of India (Adaptation of Indian Laws) Order, 1937, as modified by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.
B. & O.	„ Bihar and Orissa.
Ben.	„ Bengal.
Bom.	„ Bombay.
Brit. Enact., I. S.	„ British Enactments in force in Indian States.
Ch.	„ Chapter.
Cl.	„ Clause.
Coll. Stat. Ind.	„ Collection of Statutes relating to India.
C. P.	„ Central Provinces.
E. B. & A.	„ Eastern Bengal and Assam.
Gen. R. & O.	„ General Statutory Rules and Orders.
G. G. in C.	„ Governor General in Council.
G. G. of India in C.	„ Governor General of India in Council.
G. in C.	„ Governor in Council.
G. of I.	„ Government of India.
Govt.	„ Government.
Ins.	„ Inserted.
L. G.	„ Local Government.
Mad.	„ Madras.
N. W. F. P.	„ North-West Frontier Province.
Pt.	„ Part.
R. and O.	„ Rules and Orders.
Reg.	„ Regulation.
Rep.	„ Repealed.
S.	„ Section.
Sch.	„ Schedule.
Subs.	„ Substituted.
U. P.	„ United Provinces.

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1898-1907.

1 Year.	2 No.	3 Short title or Subject.	4 Page.
1898	III	The Lepers Act, 1898	1
	V	The Code of Criminal Procedure, 1898	9
	VI	The Indian Post Office Act, 1898	379
	IX	The Live-stock Importation Act, 1898	409
	X	The Indian Insolvency Rules Act, 1898	410
	XI	The Central Provinces Tenancy Act, 1898	[1]Not printed.
	XIII	The Burma Laws Act, 1898	[2]Not printed.
1899	II	The Indian Stamp Act, 1899	411
	IV	The Government Buildings Act, 1899	475
	IX	The Indian Arbitration Act, 1899	477
	XIII	The Glanders and Farcy Act, 1899	485
	XXIII	The Church of Scotland Kirk Sessions Act, 1899 ..	489
	XXIV	The Central Provinces Court of Wards Act, 1899 ..	490
1900	III	The Prisoners Act, 1900	504
	XIII	The Punjab Alienation of Land Act, 1900 . ..	523
1901	II	The Indian Tolls (Army) Act, 1901	533
	XI	The Amending Act, 1901	538
1902	I	The Imperial Library (Indentures Validation) Act, 1902	547
	IV	The Indian Tramways Act, 1902	558
1903	I	The Amending Act, 1903	559
	VII	The Indian Works of Defence Act, 1903	575
	IX	The Indian Tea Cess Act, 1903	594
	X	The Victoria Memorial Act, 1903	598
	XIV	The Indian Foreign Marriage Act, 1903 . ..	600
	XV	The Indian Extradition Act, 1903	602
1904	VII	The Ancient Monuments Preservation Act, 1904 ..	615
	VIII	The Indian Universities Act, 1904	627
1905	IV	The Indian Railway Board Act, 1905	642
1906	III	The Indian Coinage Act, 1906	643

[1] Relates to tenancy. See Mad. Code, Vol. I. [2] Relates to Burma.

THE

UNREPEALED CENTRAL ACTS, 1898-1907.

THE LEPERS ACT, 1898.

CONTENTS.

SECTIONS.

1. Title, extent and commencement.
2 Definitions.
3. Appointment of leper asylums by Provincial Government.
4. Appointment of Inspectors of Lepers and Superintendents of Asylums
5. Constitution of Board.
6. Arrest of pauper lepers.
7. Person arrested how to be dealt with.
8. Procedure with regard to pauper lepers.
9. Power to prohibit lepers from following certain trades and doing certain acts.
10. Conviction after previous conviction.
11. Penalty on person employing lepers in prohibited trade.
12. Re-arrest of escaped lepers.
13. Inspection by Board.
14. Order of discharge by Board.
15. Appeals.
16. Power of the Provincial Government to make rules.
17. Power to local authorities to expend funds and appropriate property to asylums.
18. Protection to persons acting *bona fide* under Act
19. Lepers from Indian States.

SCHEDULE.

ACT No. III OF 1898.[1]

[*4th February, 1898.*]

An Act to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.

WHEREAS it is expedient to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings ; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Act may be called the Lepers Act, 1898.

(*2*) It extends to ~~the whole of British India~~, inclusive of [2]* *, ~~British Baluchistan~~, the Santhal Parganas and the Pargana of Spiti ; but

(*3*) It shall not come into force in any part thereof until the [3][Provincial Government], as hereinafter provided, has declared it applicable thereto.

(*4*) The [3][Provincial Government] may, by notification[4] in the Official Gazette, apply this Act or any part thereof to the whole or any portion of the territories for the time being under its administration [5]* * *.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "leper" means any person suffering from any variety of leprosy [6]* * *;

(*2*) "pauper leper" means a leper—

(*a*) who publicly solicits alms or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or

(*b*) who is at large without any ostensible means of subsistence ;

(*3*) "leper asylum" means a leper asylum appointed under section 3 ;

(*4*) "Board" means a Board constituted under section 5 ; and

(*5*) "District Magistrate" includes a Chief Presidency Magistrate.

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 231 ; for Report of the Select Committee, *see ibid.*, 1898, Pt. V, p. 7 ; and for Proceedings in Council, *see ibid.*, 1896, Pt. VI, p. 227 ; *ibid.*, 1897, Pt. VI, p. 248 ; and *ibid.*, 1898, Pt. VI, pp. 10 and 18.

This Act has been declared to be in force in the Sonthal Parganas, *see* the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 ; in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and in the Angul Distric

The Act has been applied to the whole of the Ajmer-Marwar, See Gaz. of India, 1936 .Part 11-A. p.488.

2

3

4

5 The words [illegible] notification rep. by the Lepers (Amendment) Act, 1920 (22 of 1920), s. 2.

6 The words "in whom the process of ulceration has commenced" rep. by s. 3, *ibid.*

[1][3. The [2][Provincial Government] may, by notification[3] in the Official Gazette, appoint any place to be a leper asylum if it is satisfied that adequate arrangements have been made or will be made for the accommodation and medical treatment of lepers therein, and may, by a like notification, specify the local areas from which lepers may be sent to such asylum.]

Appointment of leper asylums by Provincial Government.

4. Subject to any rules which may be made under section 16, the [2][Provincial Government] may appoint any Medical Officer of the Government or other qualified medical man to be an Inspector[4] of Lepers and any person to be a Superintendent[4] of a Leper Asylum, with such establishment as may, in its opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

Appointment of Inspectors of Lepers and Superintendents of Asylums.

5. The [2][Provincial Government] shall constitute for every leper asylum appointed under section 3 a Board[5] consisting of not less than three members, one of whom at least shall be a Medical Officer of the Government.

Constitution of Board.

6. (*1*) Within any local area which has been specified under section 3 any police-officer [6][or any other person specially empowered by the [2][Provincial Government] by order in writing in this behalf] may arrest without a warrant any person who appears to him to be a pauper leper.

Arrest of pauper lepers.

(*2*) Such police-officer [6][or other person] shall forthwith take or send the person so arrested to the nearest convenient police-station.

7. Every person brought to a police-station under the last foregoing section shall, without unnecessary delay, be taken before an Inspector of Lepers, who,—

Person arrested how to be dealt with.

(*a*) if he finds that such person is not a leper within the meaning of section 2, shall give him a certificate in Form A set forth in the schedule, whereupon such person shall be forthwith released from arrest ;

(*b*) if he finds that such person is a leper within the meaning of section 2, shall give to the police-officer, in whose custody the leper is, a certificate in Form B set forth in the schedule, whereupon the leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

8. (*1*) If it appears to any Presidency Magistrate or Magistrate of the first class or to any other Magistrate authorised in this behalf by the

Procedure with regard to pauper lepers.

---

1 Subs. by the Lepers (Amendment) Act, 1920 (22 of 1920), s. 4, for the original section.

2 Subs. by the A. O. for "L. G.".

3 For notifications under this section, *see* different local Rules and Orders.

4 For appointment of such Inspectors and Superintendents, *see* different local Rules and Orders.

5 For notifications constituting such Boards, *see* different local Rules and Orders.

6 Ins. by the Lepers (Amendment) Act, 1920 (22 of 1920), s. 5.

[1][Provincial Government], upon the certificate in Form B set forth in the schedule, that any person is a leper, and if it further appears to the Magistrate that the person is a pauper leper, he may, after recording the evidence on the above-mentioned points, and his order thereon, send the pauper leper in charge of a police-officer, together with an order in Form C set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate :

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of Lepers, and shall take such further evidence as may be necessary to support or to rebut the allegation that the person is a leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail :

Provided also that if any friend or relative of any person found to be a pauper leper shall undertake in writing to the satisfaction of the Magistrate that such pauper leper shall be properly taken care of and shall be prevented from publicly begging in any area specified under section 3, the Magistrate, instead of sending the leper to an asylum, may make the leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which the provisions of section 514 of the Code of Criminal Procedure[2] X of 1882. shall be applicable.

(*2*) If the Magistrate finds that such person is not a leper, or that, if a leper, he is not a pauper leper, he shall forthwith discharge him.

Power to prohibit lepers from following certain trades and doing certain acts.

9. (*1*) The [1][Provincial Government] may, by notification[3] in the Official Gazette, order that no leper shall, within any area specified under section 3,—

(*a*) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use ; or

(*b*) bathe, wash clothes or take water from any public well or tank debarred by any municipal or local bye-law from use by lepers ; or

(*c*) drive, conduct or ride in any public carriage plying for hire other than a railway carriage ; or

(*d*) exercise any trade or calling which may by such notification be prohibited to lepers.

(*2*) Any such notification may comprise all or any of the above prohibitions.

---

1 Subs. by the A. O. for "L. G.".
2 *See* now the Code of Criminal Procedure, 1898 (5 of 1898).
3 For such notifications, *see* different local Rules and Orders.

(*3*) Whoever disobeys any order made pursuant to the powers conferred by this section shall be punishable with fine which may extend to twenty rupees :

Provided that, when any person is accused of an offence under this section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate, in Form B set forth in the schedule, in respect of such person.

Conviction after previous conviction.

10. (*1*) Whenever any leper who has been convicted of an offence punishable under the last foregoing section is again convicted of any offence punishable under that section, the Magistrate may, in addition to, or in lieu of, any punishment to which such leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the schedule.

(*2*) If any such leper fails to furnish any security required under sub-section (*1*), the Magistrate may send him in charge of a police-officer, with an order in Form D set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate.

(*3*) The powers conferred by this section shall only be exercised by a Presidency Magistrate or Magistrate of the first class.

Penalty on person employing lepers in prohibited trade.

11. Any person who, within any area specified under section 3, knowingly employs a leper in any trade or calling prohibited by order under section 9 shall be punishable with fine which may extend to fifty rupees :

Provided that the alleged leper shall be produced before the Magistrate and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the schedule in respect of such alleged leper.

Re-arrest of escaped lepers.

12. Whoever, having been sent to a leper asylum under an order of a Magistrate in Form C or Form D set forth in the schedule, escapes from, or leaves, the asylum without the permission in writing of the Superintendent thereof, may be arrested [1][without a warrant by any police-officer or by any other person especially empowered by the [2][Provincial Government] by order in writing in this behalf,] and upon arrest shall be forthwith taken back to the leper asylum.

Inspection by Board.

13. Two or more members of the Board, one of whom shall be the Medical Officer, shall, once at least in every three months, together inspect the leper asylum for which they are constituted, and see and

---

[1] Subs. by the Lepers (Amendment) Act, 1920 (22 of 1920), s. 6, for "by any police-officer without a warrant".

[2] Subs. by the A. O. for "L. G.".

examine (*a*) every leper therein admitted since the last inspection, together with the order for his admission, and (*b*), as far as circumstances will permit, every other leper therein, and shall enter in a book to be kept for the purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lepers therein.

Order of discharge by Board.

14. Any two members of the Board, one of whom shall be the Medical Officer, may at any time, by an order in writing in Form E set forth in the schedule and signed by them, direct the discharge from the leper asylum of any leper detained therein under the provisions of this Act.

Appeals.

15. Any person, other than a pauper leper, in respect of whom an Inspector of Lepers has issued a certificate, in Form B set forth in the schedule, declaring him to be a leper, or has refused to issue a certificate in Form A set forth in the schedule, may appeal against the issue or refusal of any such certificate to such officer[1] as may be appointed by the [2][Provincial Government] in this behalf, and the decision of such officer shall be final.

Power of the Provincial Government to make rules.

16. The [2][Provincial Government] may, by notification in the Official Gazette, make rules[3] generally for carrying out the purposes of this Act, and in particular—

(*a*) for the guidance of all or any of the officers discharging any duty under this Act ; and

(*b*) for the management of, and the maintenance of discipline in, a leper asylum.

Power to local authorities to expend funds and appropriate property to asylums.

17. Notwithstanding anything in any enactment with respect to the purposes to which the funds or other property of a local authority may be applied, any local authority may—

(*a*) establish or maintain, or establish and maintain, or contribute towards the cost of the establishment or maintenance or the establishment and maintenance of, a leper asylum either within or without the local limits of such local authority ;

(*b*) with the previous sanction of the [2][Provincial Government] and subject to such conditions as that Government may prescribe, appropriate any immoveable property vested in, or under the control of, such body, as a site for, or for use as, a leper asylum.

Protection to persons acting *bona fide* under Act.

18. No suit, prosecution or other legal proceeding shall lie against any officer or person in respect of anything in good faith[4] done or intended to be done under, or in pursuance of, the provisions of this Act.

---

1 The Principal of the Medical College, Calcutta, is the officer appointed for Bengal, *see* Ben. R. and O. ; and the Commissioner of Tirhut for the asylum at Muzaffarpur, *see* Calcutta Gazette, 1909, Pt. I, p. 959.

2 Subs. by the A. O. for "L. G.".

3 For such rules, *see* different local Rules and Orders.

4 As to definition of good faith, *see* s. 3 (*20*) of the General Clauses Act, 1897 (10 of 1897).

Lepers from Indian States.

[1][**19.** The [2][Provincial Government] may, by notification[3] in the [4][Official Gazette], direct that any leper or class of lepers, with respect to whom an order for segregation and medical treatment has been made by a Magistrate having jurisdiction within [5][any ~~Indian State~~], may be sent to any leper asylum [6][in the Province] specified in such order ; and thereupon the provisions of this Act and of any rules made thereunder shall, with such modifications not affecting the substance as may be reasonable and necessary to adapt them to the subject-matter, apply to any leper sent to a leper asylum in pursuance of such notification as though he had been sent by the order of a Magistrate having jurisdiction under this Act.]

Accedding State

SCHEDULE.

A.—Certificate.

(*Section 7.*)

I, the undersigned (*here enter name and official designation*), hereby certify that I on the day of at personally examined (*here enter name of person examined*), and that the said is not a leper as defined by the Lepers Act, 1898.

Given under my hand this day of 189 .

(*Signature.*)

Inspector of Lepers.

B.—Certificate.

(*Section 7.*)

I, the undersigned (*here enter name and official designation*), hereby certify that I on the day of at personally examined (*here enter name of leper*), and that the said is a leper as defined by the Lepers Act, 1898, and that I have formed this opinion on the following grounds, namely,—

(*Here state the grounds.*)

Given under my hand this day of 189 .

(*Signature.*)

Inspector of Lepers.

---

1 Ins. by the Lepers (Amendment) Act, 1903 (13 of 1903), s. 2. The original s. 19 had been rep. by the Amending Act, 1903 (1 of 1903).

2 Subs. by the A. O. for "G. G. in C.".

3 For a notification under this section, *see* Gazette of India, 1919, Pt. I, p. 1931, and Gen. R. & O., Vol. III, p. 240.

4 Subs. by the A. O. for "Gazette of India".

5 Subs. by the A. O. for "the territories of any Native Prince or State in India".

6 Ins. by the A. O.

C.—WARRANT OF DETENTION.

(*Section 8.*)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS it has been made to appear to me that (*name and description*) is a pauper leper as defined in the Lepers Act, 1898 :

This is to authorise you, the said Superintendent, to receive the said into your custody together with this order and $\frac{\text{him}}{\text{her}}$ safely to keep in the said asylum until $\frac{\text{he}}{\text{she}}$ shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 189 .

Seal.

(*Signature.*)

Magistrate.

D.—WARRANT OF DETENTION.

(*Section 10.*)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT .

WHEREAS (*name and description*) has this day been convicted by me of an offence punishable under section 9 of the Lepers Act, 1898, and whereas it has been proved before me that the said (*name and description*) was previously convicted of an offence punishable under the same section :

This is to authorise you, the said Superintendent, to receive the said into your custody together with this order and $\frac{\text{him}}{\text{her}}$ safely to keep in the said asylum until $\frac{\text{he}}{\text{she}}$ shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 189

Seal.

(*Signature.*)

Magistrate.

E.—ORDER OF DISCHARGE BY BOARD.*

(*Section 14.*)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS (*name and description*) was committed to your custody under an order dated the day of 189

* A corresponding form may be used by the District Magistrate for orders of discharge issued under s. 10 (*2*).

and there have appeared to us sufficient grounds for the opinion that $\frac{\text{he}}{\text{she}}$ can be released without hazard or inconvenience to the community :

This is to authorise and require you forthwith to discharge the said (*name*) from your custody.

Given under our hands this day of 189 .

(*Signatures.*)

Members of the Asylum Board.

THE CODE OF CRIMINAL PROCEDURE, 1898.

CONTENTS.

PART I.

PRELIMINARY.

CHAPTER I.

SECTIONS.

1. Short title.
   Commencement.
   Extent.
2. [*Repealed.*]
3. References to Code of Criminal Procedure and other repealed enactments.
   Expressions in former Acts.
4. Definitions.
   Words referring to acts.
   Words to have same meaning as in Indian Penal Code.
5. Trial of offences under Penal Code.
   Trial of offences against other laws.

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES

A.—Classes of Criminal Courts.

6. Classes of Criminal Courts.

B.—Territorial Divisions.

SECTIONS.

7. Sessions divisions and districts.
Power to alter divisions and districts.
Existing divisions and districts maintained till altered.
Presidency-towns to be deemed districts.
8. Power to divide districts into sub-divisions.
Existing sub-divisions maintained.

C.—Courts and Offices outside the Presidency-towns.

9. Court of Session.
10. District Magistrate.
11. Officers temporarily succeeding to vacancies in office of District Magistrate.
12. Subordinate Magistrates.
Local limits of their jurisdiction.
13. Power to put Magistrate in charge of sub-division.
Delegation of powers to District Magistrate.
14. Special Magistrates.
15. Benches of Magistrates.
Powers exerciseable by Bench in absence of special direction.
16. Power to frame rules for guidance of Benches.
17. Subordination of Magistrates and Benches to District Magistrate : to sub-Divisional Magistrate.
Subordination of Assistant Sessions Judges to Sessions Judge.

D.—Courts of Presidency Magistrates.

18. Appointment of Presidency Magistrates.
19. Benches.
20. Local Limits of jurisdiction.
21. Chief Presidency Magistrate.

E.—Justices of the Peace.

22. Justices of the Peace for the mufassal.
23. } [*Repealed.*]
24. }
25. *Ex-officio* Justices of the Peace.

F.—Suspension and Removal.

26. } [*Repealed.*]
27. }

CHAPTER III.

Powers of Courts.

A.—Description of Offences cognizable by each Court.

Sections.

28. Offences under Penal Code.
29. Offences under other laws.
29A. Trial of European British subjects by second and third class Magistrates.
29B. Jurisdiction in the case of juveniles.
30. Offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

31. Sentences which High Courts and Sessions Judges may pass.
32. Sentences which Magistrates may pass.
33. Power of Magistrates to sentence to imprisonment in default of fine.
Proviso as to certain cases.
34. Higher powers of certain District Magistrates.
34A. Sentences which Courts and Magistrates may pass upon European British subjects.
35. Sentence in cases of conviction of several offences at one trial.
Maximum term of punishment.

C.—Ordinary and Additional Powers.

36. Ordinary powers of Magistrates.
37. Additional powers conferable on Magistrates.
38. Control of District Magistrate's investing power.

D.—Conferment, Continuance and Cancellation of Powers.

39. Mode of conferring powers.
40. Powers of officers appointed.
41. Powers may be cancelled.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

Of Aid and Information to the Magistrates, the Police and Persons making arrests.

42. Public when to assist Magistrates and police.
43. Aid to person, other than police-officer, executing warrant.

SECTIONS.

44. Public to give information of certain offences.

45. Village-headmen, accountants, landholders and others bound to report certain matters.

Appointment of village-headmen by District Magistrate or Sub-divisional Magistrate in certain cases for purposes of this section.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. Arrest how made.

Resisting endeavour to arrest.

47. Search of place entered by person sought to be arrested

48. Procedure where ingress not obtainable.

Breaking open zanáná.

49. Power to break open doors and windows for purposes of liberation.

50. No unnecessary restraint.

51. Search of arrested persons.

52. Mode of searching women.

53. Power to seize offensive weapons.

B.—Arrest without Warrant.

54. When police may arrest without warrant.

55. Arrest of vagabonds, habitual robbers, etc.

56. Procedure when police-officer deputes subordinate to arrest without warrant.

57. Refusal to give name and residence.

58. Pursuit of offenders into other jurisdictions

59. Arrest by private persons and procedure on such arrest.

60. Person arrested to be taken before Magistrate or officer in charge of police-station.

61. Person arrested not to be detained more than twentyfour hours.

62. Police to report apprehensions.

63. Discharge of person apprehended.

64. Offence committed in Magistrate's presence.

65. Arrest by or in presence of Magistrate.

66. Power, on escape, to pursue and retake.

67. Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE

A.—Summons.

SECTIONS.

68. Form of summons.
Summons by whom served.
69. Summons how served.
Signature of receipt for summons.
70. Service when person summoned cannot be found
71. Procedure when service cannot be effected as before provided.
72. Service on servant of Crown or of Railway Company.
73. Service of summons outside local limits.
74. Proof of service in such cases, and when serving officer not present.

B.—Warrant of Arrest.

75. Form of warrant of arrest.
Continuance of warrant of arrest.
76. Court may direct security to be taken.
Recognizance to be forwarded.
77. Warrants to whom directed.
Warrants to several persons.
78. Warrant may be directed to landholders, etc
79. Warrant directed to police-officer.
80. Notification of substance of warrant.
81. Person arrested to be brought before Court without delay.
82. Where warrant may be executed
83. Warrant forwarded for execution outside jurisdiction.
84. Warrant directed to police-officer for execution outside jurisdiction.
85. Procedure on arrest of person against whom warrant issued.
86. Procedure by Magistrate before whom person arrested is brought.

C.—Proclamation and Attachment.

87. Proclamation for person absconding.
88. Attachment of property of person absconding.
89. Restoration of attached property

D.—Other Rules regarding Processes.

90. Issue of warrant in lieu of, or in addition to, summons.
91. Power to take bond for appearance.

E- Special Rules regarding Processes issued for service or execution outside the Provinces and Processes received from outside the Provinces for service or execution within the Provinces.

93-A. Sending of summons for service outside the Provinces.
93-B. Sending of Warrant for execu tion outside the Provinces
93-C. Service and Execution in the Provinces of Processes received from outside the Provinces.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

94. Summons to produce document or other thing.
95. Procedure as to letters and telegrams.

B.—Search-warrants.

96. When search-warrant may be issued.
97. Power to restrict warrant.
98. Search of house suspected to contain stolen property, forged documents, etc.
99. Disposal of things found in search beyond jurisdiction.
99A. Power to declare certain publications forfeited, and to issue search-warrants for the same.
99B. Application to High Court to set aside order of forfeiture.
99C. Hearing by Special Bench.
99D. Order of Special Bench setting aside forfeiture.
99E. Evidence to prove nature or tendency of newspapers.
99F. Procedure in High Court.
99G. Jurisdiction barred.

C.—Discovery of Person wrongfully confined.

100. Search for persons wrongfully confined.

D.—General Provisions relating to Searches.

101. Direction, etc., of search-warrants.
102. Persons in charge of closed place to allow search.
103. Search to be made in presence of witnesses.
Occupant of place searched may attend.

E.—Miscellaneous.

104. Power to impound documents, etc., produced.
105. Magistrate may direct search in his presence.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

SECTIONS.

106. Security for keeping the peace on conviction.

B.—Security for keeping the Peace in other Cases and Security for Good Behaviour.

107. Security for keeping the peace in other cases

Procedure of Magistrate not empowered to act under sub-section (*1*).

108. Security for good behaviour from persons disseminating seditious matter.

109. Security for good behaviour from vagrants and suspected persons.

110. Security for good behaviour from habitual offenders.

111. [*Repealed.*]

112. Order to be made.

113. Procedure in respect of person present in Court.

114. Summons or warrant in case of person not so present.

115. Copy of order under section 112 to accompany summons or warrant.

116. Power to dispense with personal attendance.

117. Inquiry as to truth of information.

118. Order to give security.

119. Discharge of person informed against.

C.—Proceedings in all Cases subsequent to Order to furnish Security.

120. Commencement of period for which security is required.

121. Contents of bond.

122. Power to reject sureties.

123. Imprisonment in default of security.

Proceedings when to be laid before High Court or Court of Session.

Kind of imprisonment.

124. Power to release persons imprisoned for failing to give security.

125. Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.

SECTIONS.

126. Discharge of sureties.
126A. Security for unexpired period of bond.

CHAPTER IX.

UNLAWFUL ASSEMBLIES.

127. Assembly to disperse on command of Magistrate or police-officer.
128. Use of civil force to disperse.
129. Use of military force.
130. Duty of officer commanding troops required by Magistrate to disperse assembly.
131. Power of commissioned military officers to disperse assembly.
132. Protection against prosecution for acts done under this Chapter.

CHAPTER X.

PUBLIC NUISANCES.

133. Conditional order for removal of nuisance.
134. Service or notification of order.
135. Person to whom order is addressed to obey, or show cause or claim jury.
136. Consequence of his failing to do so.
137. Procedure where he appears to show cause.
138. Procedure where he claims jury.
139. Procedure where jury finds Magistrate's order to be reasonable.
139A. Procedure where existence of public right is denied.
140. Procedure on order being made absolute.
Consequences of disobedience to order.
141. Procedure on failure to appoint jury or omission to return verdict.
142. Injunction pending inquiry.
143. Magistrate may prohibit repetition or continuance of public nuisance.

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

144. Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

CHAPTER XII.

Disputes as to Immoveable Property.

Sections.

145. Procedure where dispute concerning land, etc., is likely to cause breach of peace.
Inquiry as to possession.
Party in possession to retain possession until legally evicted.
146. Power to attach subject of dispute.
147. Disputes concerning rights of use of immoveable property, etc.
148. Local inquiry.
Order as to costs.

CHAPTER XIII.

Preventive Action of the Police.

149. Police to prevent cognizable offences.
150. Information of design to commit such offences.
151. Arrest to prevent such offences.
152. Prevention of injury to public property.
153. Inspection of weights and measures.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

154. Information in cognizable cases.
155. Information in non-cognizable cases.
Investigation into non-cognizable cases.
156. Investigation into cognizable cases.
157. Procedure where cognizable offence suspected ;
where local investigation dispensed with ;
where police-officer in charge sees no sufficient ground for investigation.
158. Reports under section 157 how submitted.
159. Power to hold investigation or preliminary inquiry.
160. Police-officer's power to require attendance of witnesses.
161. Examination of witnesses by police.

SECTIONS.

162. Statements to police not to be signed ; use of such statements in evidence.

163. No inducement to be offered.

164. Power to record statements and confessions.

165. Search by police-officer.

166. When officer in charge of police-station may require another to issue search-warrant.

167. Procedure when investigation cannot be completed in twenty-four hours.

168. Report of investigation by subordinate police-officer.

169. Release of accused when evidence deficient.

170. Case to be sent to Magistrate when evidence is sufficient.

171. Complainants and witnesses not to be required to accompany Police-officer.

Complainants and witnesses not to be subjected to restraint.

Recusant complainant or witness may be forwarded in custody.

172. Diary of proceedings in investigation.

173. Report of police-officer.

174. Police to inquire and report on suicide, etc.

175. Power to summon persons.

176. Inquiry by Magistrate into cause of death.

Power to disinter corpses.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

177. Ordinary place of inquiry and trial.

178. Power to order cases to be tried in different sessions divisions.

179. Accused triable in district where act is done, or where consequence ensues.

180. Place of trial where act is offence by reason of relation to other offence.

181. Being a thug or belonging to a gang of dacoits, escape from custody, etc.

Criminal misappropriation and criminal breach of trust.

SECTIONS.

Theft.

Kidnapping and abduction.

182. Place of inquiry or trial where scene of offence is uncertain, or not in one district only, or where offence is continuing, or consists of several acts.

183. Offence committed on a journey.

184. Offences against Railway, Telegraph, Post Office and Arms Acts.

185. High Court to decide, in case of doubt, district where inquiry or trial shall take place.

186. Power to issue summons or warrant for offence committed beyond local jurisdiction.

Magistrate's procedure on arrest.

187. Procedure where warrant issued by subordinate Magistrate.

188. Liability of British subjects for offences committed out of ~~British India~~. the Provinces.

Political Agents to certify fitness of inquiry into charge.

189. Power to direct copies of depositions and exhibits to be received in evidence.

B.—Conditions requisite for Initiation of Proceedings.

190. Cognizance of offences by Magistrates.

191. Transfer or commitment on application of accused.

192. Transfer of cases by Magistrates.

193. Cognizance of offences by Courts of Session.

194. Cognizance of offences by High Court.

Informations by Advocate General.

195. Prosecution for contempt of lawful authority of public servants.

Prosecution for certain offences against public justice.

Prosecution for certain offences relating to documents given in evidence.

196. Prosecution for offences against the State.

196A. Prosecution for certain classes of criminal conspiracy.

196B. Preliminary inquiry in certain cases.

197. Prosecution of Judges and public servants.

Power of Governor General or Governor as to prosecution.

198. Prosecution for breach of contract, defamation and offences against marriage.

199. Prosecution for adultery or enticing a married woman.

199A. Objection by lawful guardian to complaint by person other than person aggrieved.

199-B. Form of authorisation under Second proviso to Section 198 or 199

CHAPTER XVI.

Of Complaints to Magistrates.

Sections.

200. Examination of complainant.
201. Procedure by Magistrate not competent to take cognizance of the case.
202. Postponement for issue of process.
203. Dismissal of complaint.

CHAPTER XVII.

Of the Commencement of Proceedings before Magistrates.

204. Issue of process.
205. Magistrate may dispense with personal attendance of accused.

CHAPTER XVIII.

Of Inquiry into Cases triable by the Court of Session or High Court.

206. Power to commit for trial.
207. Procedure in inquiries preparatory to commitment.
208. Taking of evidence produced.
Process for production of further evidence.
209. When accused person to be discharged.
210. When charge is to be framed.
Charge to be explained, and copy furnished, to accused.
211. List of witnesses for defence on trial.
Further list.
212. Power of Magistrate to examine such witnesses.
213. Order of commitment.
214. [*Repealed.*]
215. Quashing commitments under section 213.
216. Summons to witnesses for defence when accused is committed.
Refusal to summon unnecessary witness unless deposit made.
217. Bond of complainants and witnesses.
Detention in custody in case of refusal to attend or to execute bond.
218. Commitment when to be notified.
Charge, etc., to be forwarded to High Court or Court of Session.
English translation to be forwarded to High Court.
219. Power to summon supplementary witnesses.
220. Custody of accused pending trial.

CHAPTER XIX.

Of the Charge

Form of Charges.

SECTIONS.

221. Charge to state offence.
Specific name of offence sufficient description.
How stated where offence has no specific name.
What implied in charge.
Language of charge.
Previous conviction when to be set out.
222. Particulars as to time, place and person.
223. When manner of committing offence must be stated.
224. Words in charge taken in sense of law under which offence is punishable.
225. Effect of errors.
226. Procedure on commitment without charge or with imperfect charge.
227. Court may alter charge.
228. When trial may proceed immediately after alteration.
229. When new trial may be directed, or trial suspended.
230. Stay of proceedings if prosecution of offence in altered charge require previous sanction.
231. Recall of witnesses when charge altered.
232. Effect of material error.

Joinder of Charges.

233. Separate charges for distinct offences.
234. Three offences of same kind within year may be charged together.
235. Trial for more than one offence.
Offence falling within two definitions.
Acts constituting one offence, but constituting when combined a different offence.
236. Where it is doubtful what offence has been committed.
237. When a person is charged with one offence, he can be convicted of another.
238. When offence proved included in offence charged.
239. What persons may be charged jointly
240. Withdrawal of remaining charges on conviction on one of several charges.

CHAPTER XX.

Of the Trial of Summons-cases by Magistrates.

Sections.

241. Procedure in summons-cases.
242. Substance of accusation to be stated.
243. Conviction on admission of truth of accusation.
244. Procedure when no such admission is made.
245. Acquittal.
Sentence.
246. Finding not limited by complaint or summons.
247. Non-appearance of complainant
248. Withdrawal of complaint.
249. Power to stop proceedings when no complainant.

Frivolous Accusations in Summons and Warrant Cases.

250. False, frivolous or vexatious accusations.

CHAPTER XXI.

Of the Trial of Warrant-cases by Magistrates.

251. Procedure in warrant-cases.
252. Evidence for prosecution.
253. Discharge of accused.
254. Charge to be framed when offence appears proved.
255. Plea.
255A. Procedure in case of previous convictions.
256. Defence.
257. Process for compelling production of evidence at instance of accused.
258. Acquittal.
Conviction.
259. Absence of complainant.

CHAPTER XXII.

Of Summary Trials.

260. Power to try summarily.
261. Power to invest Bench of Magistrates invested with less power.
262. Procedure for summons and warrant-cases applicable.
Limit of imprisonment.

SECTIONS.

263. Record in cases where there is no appeal.
264. Record in appealable cases.
265. Language of record and judgment.
Bench may be authorized to employ clerk.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.

A.—Preliminary.

266. " High Court " defined.
267. Trials before High Court to be by jury.
268. Trials before Court of Session to be by jury or with assessors.
269. Provincial Government may order trials before Court of Session to be by jury.
270. Trial before Court of Session to be conducted by Public Prosecutor.

B.—Commencement of Proceedings.

271. Commencement of trial.
Plea of guilty.
272. Refusal to plead or claim to be tried.
Trial by same jury or assessors of several offenders in succession.
273. Entry on unsustainable charges.
Effect of entry.

C.—Choosing a Jury.

274. Number of jury.
275. Jury for trial of European and Indian British subjects and others.
276. Jurors to be chosen by lot.
Existing practice maintained ;
persons not summoned when eligible ;
trials before special jurors.
277. Names of jurors to be called.
Objection to jurors.
Objection without grounds stated.
278. Grounds of objection.
279. Decision of objection.
Supply of place of juror against whom objection allowed.
280. Foreman of jury.

SECTIONS.

281. Swearing of jurors.
282. Procedure when juror ceases to attend, etc.
283. Discharge of jury in case of sickness of prisoner.

D.—Choosing Assessors.

284. Assessors how chosen.
284A. Assessors for trial of European and Indian British subjects and others.
285 Procedure when assessor is unable to attend.

DD.—Joint Trials.

285A Trial of European or Indian British subject or European or American jointly accused with others.

E.—Trial to Close of Cases for prosecution and Defence.

286. Opening case for prosecution.
Examination of witnesses.
287. Examination of accused before Magistrate to be evidence.
288. Evidence given at preliminary inquiry admissible.
289. Procedure after examination of witnesses for prosecution.
290. Defence.
291. Right of accused as to examination and summoning of witnesses.
292. Prosecutor's right of reply.
293. View by jury or assessors.
294. When juror or assessor may be examined.
295. Jury or assessors to attend at adjourned sitting.
296. Locking up jury.
297. Charge to jury.
298. Duty of Judge.

F.—Conclusion of Trial in Cases tried by Jury.

299. Duty of jury.
300. Retirement to consider.
301. Delivery of verdict.
302. Procedure where jury differ.
303. Verdict to be given on each charge.
Judge may question jury.
Questions and answers to be recorded.
304. Amending verdict.
305. Verdict in High Court when to prevail.
Discharge of jury in other cases.

SECTIONS.

306. Verdict in Court of Session when to prevail.
307. Procedure where Sessions Judge disagrees with verdict.

G.—Re-trial of Accused after Discharge of Jury.

308. Re-trial of accused after discharge of jury.

H.—Conclusion of Trial in cases tried with Assessors.

309. Delivery of opinions of assessors.
Judgment.

I.—Procedure in case of Previous Conviction.

310. Procedure in case of previous conviction.
311. When evidence of previous conviction may be given.

J.—List of Jurors for High Court and summoning Jurors for that Court.

312. Number of special jurors.
313. Lists of common and special jurors.
Discretion of officer preparing lists.
314. Publication of lists, preliminary and revised.
315. Number of jurors to be summoned.
Supplementary summons.
316. Summoning jurors outside the place of sitting of High Courts.
317. Military jurors.
318. Failure of jurors to attend.

K.—List of Jurors and Assessors for Court of Session and summoning Jurors and Assessors for that Court.

319. Liability to serve as jurors or assessors.
320. Exemptions.
321. List of jurors and assessors.
322. Publication of list.
323. Objections to list.
324. Revision of list.
Annual revision of list.
325. Preparation of list of special jurors.
326. District Magistrate to summon jurors and assessors.
327. Power to summon another set of jurors or assessors.
328. Form and contents of summons.
329. When Government or Railway servant may be excused.

SECTIONS.

330. Court may excuse attendance of juror or assessor.
Court may relieve special jurors from liability to serve again as jurors for twelve months.
331. List of jurors and assessors attending.
332. Penalty for non-attendance of juror or assessor.

L.—Special Provisions for High Courts.

333. Power of Advocate General to stay prosecution.
334. Time of holding sittings.
335. Place of holding sittings.
Notice of sittings.
336. [*Repealed.*]

CHAPTER XXIV.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

337. Tender of pardon to accomplice.
338. Power to direct tender of pardon.
339. Commitment of person to whom pardon has been tendered.
339A. Procedure in trial of person under section 339.
340. Right of person against whom proceedings are instituted to be defended and his competency to be a witness.
341. Procedure where accused does not understand proceedings.
342. Power to examine the accused.
343. No influence to be used to induce disclosures.
344. Power to postpone or adjourn proceedings.
Remand.
Reasonable cause for remand.
345. Compounding offences.
346. Procedure of Provincial Magistrate in cases which he cannot dispose of.
347. Procedure when, after commencement of inquiry or trial Magistrate finds case should be committed.
348. Trial of persons previously convicted of offences against coinage, stamp law or property.
349. Procedure when Magistrate cannot pass sentence sufficiently severe.
350. Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.
350A. Changes in constitution of Benches.
351. Detention of offenders attending Court.
352. Courts to be open.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

SECTIONS.

353. Evidence to be taken in presence of accused.
354. Manner of recording evidence outside presidency-towns.
355 Record in summons-cases, and in trials of certain offences by first and second class Magistrates.
356. Record in other cases outside presidency-towns.
Evidence given in English.
Memorandum when evidence not taken down by the Magistrate or Judge himself.
357. Language of record of evidence.
358. Option to Magistrate in cases under section 355.
359. Mode of recording evidence under section 356 or section 357.
360. Procedure in regard to such evidence when completed.
361. Interpretation of evidence to accused or his pleader.
362. Record of evidence in Presidency Magistrates' Courts.
363. Remarks respecting demeanour of witness.
364. Examination of accused how recorded.
365 Record of evidence in High Court.

CHAPTER XXVI.

366. Mode of delivering judgment.
367. Language of judgment.
Contents of judgment.
Judgment in alternative.
368. Sentence of death.
Sentence of transportation.
369. Court not to alter judgment.
370. Presidency Magistrate's judgment.
371. Copy of judgment, etc., to be given to accused on application.
Case of person sentenced to death.
372. Judgment when to be translated.
373. Court of Session to send copy of finding and sentence to District Magistrate

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

374. Sentence of death to be submitted by Court of Session.

SECTIONS.

375. Power to direct further inquiry to be made or additional evidence to be taken.
376. Power of High Court to confirm sentence or annul conviction.
377. Confirmation or new sentence to be signed by two Judges.
378. Procedure in case of difference of opinion.
379. Procedure in cases submitted to High Court for confirmation.
380. Procedure in cases submitted by Magistrate not empowered to act under section 562.

CHAPTER XXVIII.

OF EXECUTION.

381. Execution of order passed under section 376.
382 Postponement of capital sentence on pregnant woman.
383. Execution of sentences of transportation or imprisonment in other cases.
384. Direction of warrant for execution.
385. Warrant with whom to be lodged.
386. Warrant for levy of fine.
387. Effect of such warrant.
388. Suspension of execution of sentence of imprisonment.
389. Who may issue warrant.
390. Execution of sentence of whipping only.
391. Execution of sentence of whipping in addition to imprisonment.
392. Mode of inflicting punishment.
Limit of number of stripes.
393 Not to be executed by instalments.
Exemptions.
394. Whipping not to be inflicted if offender not in fit state of health.
Stay of execution.
395. Procedure if punishment cannot be inflicted under section 394.
396. Execution of sentences on escaped convicts.
397. Sentence on offender already sentenced for another offence.
398. Saving as to sections 396 and 397.
399. Confinement of youthful offenders in reformatories.
400. Return of warrant on execution of sentence.

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES

SECTIONS

401. Power to suspend or remit sentences.
402. Power to commute punishment.
402A. Sentences of death.

CHAPTER XXX.

OF PREVIOUS ACQUITTALS OR CONVICTIONS.

403. Person once convicted or acquitted not to be tried for same offence.

PART VII.

OF APPEAL, REFERENCE AND REVISIONS.

CHAPTER XXXI.

OF APPEALS.

404. Unless otherwise provided, no appeal to lie.
405. Appeal from order rejecting application for restoration of attached property.
406. Appeal from order requiring security for keeping the peace or for good behaviour.
406A. Appeal from order refusing to accept or rejecting a surety.
407. Appeal from sentence of Magistrate of the second or third class.
Transfer of appeals to first class Magistrate.
408. Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.
409. Appeals to Court of Session how heard
410. Appeal from sentence of Court of Session.
411 Appeal from sentence of Presidency Magistrate.
411-A- " " " " High Court-
412. No appeal in certain cases when accused pleads guilty.
413. No appeal in petty cases.
414. No appeal from certain summary convictions.
415. Proviso to sections 413 and 414.
415A. Special right of appeal in certain cases.
416. [*Repealed.*]
417. Appeal on behalf of Government in case of acquittal.

SECTIONS.

418. Appeal on what matters admissible.
419. Petition of appeal.
420. Procedure when appellant in jail.
421. Summary dismissal of appeal.
422. Notice of appeal.
423. Powers of Appellate Court in disposing of appeal.
424. Judgments of subordinate Appellate Courts.
425. Order by High Court on appeal to be certified to lower Court
426. Suspension of sentence pending appeal.
Release of appellant on bail.
427. Arrest of accused in appeal from acquittal.
428. Appellate Court may take further evidence or direct it to be taken.
429. Procedure where Judges of Court of Appeal are equally divided.
430. Finality of orders on appeal
431. Abatement of appeals.

CHAPTER XXXII.

OF REFERENCE AND REVISION.

432. Reference by Presidency Magistrate to High Court.
433. Disposal of case according to decision of High Court.
Direction as to costs.
~~434. Power to reserve questions arising in original jurisdiction of High Court.~~ omitted by Act 26 of 1943.
Procedure when question reserved.
435. Power to call for records of inferior Courts.
436. Power to order inquiry.
437. Power to order commitment.
438. Report to High Court.
439. High Court's powers of revision.
440. Optional with Court to hear parties.
441. Statement by Presidency Magistrate of grounds of his decision to be considered by High Court.
442. High Court's order to be certified to lower Court or Magistrate.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

SPECIAL PROVISION RELATING TO CASES IN WHICH EUROPEAN AND INDIAN BRITISH SUBJECTS ARE CONCERNED.

SECTIONS.

443. Determination regarding applicability of this Chapter.
444. Definition of " complainant ".
445. Pocedure in summons-cases.
446. Procedure in warrant-cases.
447. Court to inform accused persons of their rights in certain cases.
448 [*Repealed.*]
449. Special provisions relating to appeal.
450—463. [*Repealed.*]

CHAPTER XXXIV.

LUNATICS.

464 Procedure in case of accused being lunatic.
465. Procedure in case of person committed before Court of Session or High Court being lunatic.
466. Release of lunatic pending investigation or trial.
Custody of lunatic.
467. Resumption of inquiry or trial.
468. Procedure on accused appearing before Magistrate or Court.
469. When accused appears to have been insane.
470. Judgment of acquittal on ground of lunacy.
471. Person acquitted on such ground to be detained in safe custody.
Power of Provincial Government to relieve Inspector General of certain functions.
472. [*Repealed.*]
473. Procedure where lunatic prisoner is reported capable of making his defence.
474. Procedure where lunatic detained under section 466 or 471 is declared fit to be released.
475. Delivery of lunatic to care of relative or friend.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

SECTIONS.

476. Procedure in cases mentioned in section 195.

476A. Superior Court may complain where subordinate Court has omitted to do so.

476B. Appeals.

477. [*Repealed.*]

478. Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.

479. Procedure of Civil or Revenue Court in such cases.

480. Procedure in certain cases of contempt.

481. Record in such cases.

482. Procedure where Court considers that case should not be dealt with under section 480.

483 When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

484 Discharge of offender on submission or apology.

485. Imprisonment or committal of person refusing to answer or produce document.

486. Appeals from convictions in contempt cases.

487. Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

488. Order for maintenance of wives and children.

Enforcement of order.

489. Alteration in allowance.

490. Enforcement of order of maintenance.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A *Habeas Corpus.*

491. Power to issue directions of the nature of a *habeas corpus.*

491A. Powers of High Court outside the limits of appellate jurisdiction.

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

SECTIONS

492. Power to appoint Public Prosecutors.

493. Public Prosecutor may plead in all Courts in cases under his charge.

Pleaders privately instructed to be under his direction.

494. Effect of withdrawal from prosecution.

495. Permission to conduct prosecution.

CHAPTER XXXIX.

OF BAIL.

496. In what cases bail to be taken.

497 When bail may be taken in case of non-bailable offence.

498 Power to direct admission to bail or reduction of bail.

499. Bond of accused and sureties.

500. Discharge from custody.

501 Power to order sufficient bail when that first taken is insufficient.

502 Discharge of sureties.

CHAPTER XL.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

503 When attendance of witness may be dispensed with.

Issue of commission, and procedure thereunder.

504. Commission in case of witness being within presidency-town.

505 Parties may examine witnesses.

506 Power of provincial Subordinate Magistrate to apply for issue of commission.

507 Return of commission.

508. Adjournment of inquiry or trial.

CHAPTER XLI

SPECIAL RULES OF EVIDENCE.

509. Deposition of medical witness.

Power to summon medical witness.

SECTIONS.

510. Report of Chemical Examiner.
511. Previous conviction or acquittal how proved.
512. Record of evidence in absence of accused.
Record of evidence when offender unknown.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

513 Deposit instead of recognizance.
514. Procedure on forfeiture of bond.
514A. Procedure in case of insolvency or death of surety or when a bond is forfeited.
514B. Bond required from a minor
515. Appeal from, and revision of, orders under section 514.
516. Power to direct levy of amount due on certain recognizances.

CHAPTER XLIII.

OF THE DISPOSAL OF PROPERTY.

516A. Order for custody and disposal of property pending trial in certain cases.
517. Order for disposal of property regarding which offence committed.
518. Order may take form of reference to District or Sub-divisional Magistrate.
519. Payment to innocent purchaser of money found on accused.
520. Stay of order under section 517, 518 or 519.
521. Destruction of libellous and other matter.
522. Power to restore possession of immoveable property.
523. Procedure by police upon seizure of property taken under section 51 or stolen.
Procedure where owner of property seized unknown.
524. Procedure where no claimant appears within six months.
525. Power to sell perishable property.

CHAPTER XLIV.

OF TRANSFER OF CRIMINAL CASES.

526. High Court may transfer case, or itself try it.
Notice to Public Prosecutor of application under this section.
Adjournment on application under this section.

SECTIONS.

526A. High Court to transfer for trial to itself in certain cases.
527. Power of Provincial Government to transfer cases and appeals.
528. Sessions Judge may withdraw cases from Assistant Sessions Judge.
District or Sub-divisional Magistrate may withdraw or refer cases.
Power to authorize District Magistrate to withdraw classes of cases.

CHAPTER XLIV-A.

SUPPLEMENTARY PROVISIONS RELATING TO EUROPEAN AND INDIAN BRITISH SUBJECTS AND OTHERS.

528A. Procedure of claim of a person to be dealt with as European or Indian British subject, or as European or American.
528B. Failure to plead status a waiver.
528C. Trial of person as belonging to class to which he does not belong.
528D. Application of Acts conferring jurisdiction on Magistrates or Courts of Session.

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS.

529. Irregularities which do not vitiate proceedings.
530. Irregularities which vitiate proceedings.
531. Proceedings in wrong place.
532. When irregular commitments may be validated
533. Non-compliance with provisions of section 164 or 364.
534. Omission to give information under section 447.
535. Effect of omission to prepare charge.
536. Trial by jury of offence triable with assessors.
Trial with assessors of offence triable by jury.
537. Finding or sentence when reversible by reason of error or omission in charge or other proceedings.
538. Attachment not illegal, person making same not trespasser for defect or want of form in proceedings.

CHAPTER XLVI.

MISCELLANEOUS.

539 Courts and persons before whom affidavits may be sworn
539A. Affidavit in proof of conduct of public servant.

SECTIONS.

539B. Local inspection.

540. Power to summon material witness, or examine person present.

540A. Provision for inquiries and trial being held in the absence of accused in certain cases.

541. Power to appoint place of imprisonment.

Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil jail.

542. Power of Presidency Magistrate to order prisoner in jail to be brought up for examination.

543. Interpreter to be bound to interpret truthfully.

544. Expenses of complainants and witnesses.

545. Power of Court to pay expenses or compensation out of fine

546. Payments to be taken into account in subsequent suit.

546A. Order of payment of certain fees paid by complainant in non-cognizable cases.

547. Moneys order to be paid recoverable as fines.

548. Copies of proceedings.

549. Delivery to military authorities of persons liable to be tried by Court-martial.

Apprehension of such persons.

550. Powers to police to seize property suspected to be stolen.

551. Powers of superior officers of police.

552. Power to compel restoration of abducted females.

553. Compensation to persons groundlessly given in charge in presidency-town.

554. Power of chartered High Courts to make rules for inspection of records of subordinate Courts.

Power of other High Courts to make rules for other purposes.

555. Forms.

556 Case in which Judge or Magistrate is personally interested.

557. Practising pleader not to sit as Magistrate in certain Courts.

558. Power to decide language of Courts.

559. Provision for powers of Judges and Magistrates being exercised by their successors in office.

560 Officers concerned in sales not to purchase or bid for property.

561. Special provisions with respect to offence of rape by a husband.

561A. Saving of inherent power of High Court.

(*Part I.—Preliminary. Chapter I.*)

First offenders.

SECTIONS.

562. Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment. Conviction and release with admonition.

563. Provision in case of offender failing to observe conditions of his recognizances.

564. Conditions as to abode of offender.

Previously convicted offenders.

565. Order for notifying address of previously convicted offender.

SCHEDULE I.—[*Repealed.*]

SCHEDULE II.—TABULAR STATEMENT OF OFFENCES.

SCHEDULE III.—ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

SCHEDULE IV.—ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

SCHEDULE V.—FORMS

ACT NO. V OF 1898.[1]

[*22nd March, 1898.*]

An Act to consolidate and amend the law relating to the Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure ;

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

CHAPTER I.

Short title. Commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure, 1898 ; and it shall come into force on the first day of July, 1898.

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 363 ; for Report of the Select Committee, *see ibid.*, 1898, Pt. V, p. 19 ; and for Proceedings in Council, *see ibid.*, 1897, Pt. VI, pp. 238 and 254 ; and *ibid.*, 1898, pp. 22, 101 and 175.

This Act has been declared to be in force in—

Sonthal Parganas (with modifications), under the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 and Sch. [as to the modifications, *see* the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 4] ;

Chittagong Hill Tracts (with a reservation as to cases tried by certain persons), by the Chittagong Hill Tracts Regulation, 1900 (1 of 1900), s. 4 and Sch. ;

British Baluchistan, by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3 and Sch. I ;

Panth Piploda, by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2 and Sch. ;

Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and

Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

The Code has been amended in-
C.P.by C.P.Act 19 of 1936; N.W.F.P. by N.W.F.P Act 10 of 1937& 8 of 1940;Bombay Presidency by Bom:Act 29 of 1935;Punjab by Punjab Act 1 of 1936;Orisa by Regu;ation 4 of 1937;Suppltd in Asam by Assam Act 3 of 1934;Amanded in N.W.F.P by N.W.F.P Act 8 of 1938;Burma by Burma Acts 2 & 4 of 1940;Punjab by Pun;Act 11 of 1940;In U.P by U.P. Act 9 of 1940.

Extent.

(*2*) It extends to ~~the whole of British India~~ ; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force, or shall apply to—

(*a*) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay ;

(*b*) heads of villages in the Presidency of Fort St. George ; or

(*c*) village police-officers in the Presidency of Bombay ;

Provided that the [1][Provincial Government] may, if it thinks fit, [2]* * * by notification in the Official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

2. [*Repeal of enactments, notifications, etc., under repealed Acts. Pending cases.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914).*

References to Code of Criminal Procedure and other repealed enactments.

3. (*1*) In every enactment passed before this Code comes into force in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of 1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

Expressions in former Acts.

(*2*) In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate," "Subordinate Magistrate, first class,"

It has been declared to be in force, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), in the Scheduled Districts in Ganjam and Vizagapatam—*see* Fort. St. George Gazette, 1898, Pt. I, p. 306, and Gazette of India, 1898, Pt. I, p. 869 ; and by notification under the same section and section 5A in the following other Scheduled Districts, namely, the Districts of Hazaribagh, Lohardaga (now the Ranchi District—*see* Calcutta Gazette, 1899, Pt. I, p. 44), Manbhum and Palamau and in Pargana Dhalbhum and the Kolhan in the Singbhum District—*see* Calcutta Gazette, 1898, Pt. I, p. 714, and Gazette of India, 1899, Pt. I, p. 779.

As to its application in (1) certain districts on the Sindh Frontier, *see* the Sindh Frontier Regulation, 1872 (5 of 1872), s. 11, and the Sindh Frontier Regulation, 1892 (3 of 1892) ; (2) the Andaman and Nicobar Islands, *see* the Andaman and Nicobar Islands Regulation (3 of 1876), s. 13.

It has ceased to be in force, by notification under s. 2 of the Assam Frontier Tracts Regulation, 1880 (2 of 1880), in the Garo Hills, the Khasi and Jaintia Hills, the Naga Hills, the North Cachar Sub-division of the Cachar District, the Mikir Hill tracts in the Nowgong District, the Dibrugarh Frontier Tracts in the Lakhimpur District, and the Lushai Hills—*see* Assam Gazette, 1898, Pt. II, p. 788 and Assam Code, Vol. II, Appendix II-C.

1 Subs. by the A. O. for "L. G.".

2 The words "with the sanction of the G. G. in C.", rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class" and "Magistrate of the third class," the expression "Magistrate of a division of a district" shall be deemed to mean "Sub-divisional Magistrate," the expression "Magistrate of the district" shall be deemed to mean "District Magistrate," the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate," and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge".

Definitions.

4. (*1*) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context :—

"Advocate General."

(*a*) "Advocate General" includes also a Government Advocate or, where there is no Advocate General or Government Advocate, such officer as the [1][Provincial Government] may, from time to time, appoint in this behalf :

"Bailable offence." "Non-bailable offence."

(*b*) "bailable offence" means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force ; and "non-bailable offence" means any other offence :

"Charge."

(*c*) "charge" includes any head of charge when the charge contains more heads than one :

[2]* * * * * *

"Clerk of the Crown."

(*e*) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown :

"Cognizable offence." "Cognizable case."

(*f*) "cognizable offence" means an offence for, and "cognizable case" means a case in, which a police-officer, within or without the presidency-towns, may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant :

"Commissioner of Police."

(*g*) "Commissioner of Police" includes a Deputy Commissioner of Police :

"Complaint."

(*h*) "complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person whether known or unknown, has committed an offence, but it does not include the report of a police officer :

---

1 Subs. by the A. O. for "the L. G.".

2 Clause (*d*) rep. by the Repealing and Amending Act, 1923 (11 of 1923), s. 3 and Sch. II.

(*Part I.—Preliminary. Chapter I.*)

"European British subject."

[1][(*i*) "European British subject" means—

(*i*) any subject of His Majesty of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or

(*ii*) any subject of His Majesty who is the child or grandchild of any such person by legitimate descent :]

"High Court."

the courts which are High courts for the purposes of the Govt. of India Act 1935

(*j*) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, ~~the High Courts of Judicature at Fort William, Madras[2]* Bombay,~~ [3][Allahabad ~~[4]*Patna~~] [5][~~Lahore [6]* and Nagpur, the Chief Court of Oudh and Court of the Judicial Commissioner of Sind~~] : in other cases "High Court" means the highest Court of criminal appeal or revision for any local area ; or, where no such Court is established under any law for the time being in force, such officer as the [7][Provincial Government] may appoint in this behalf.[8]

"Inquiry."

(*k*) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court :

"Investigation."

(*l*) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf :

"Judicial proceeding."

(*m*) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath :

"Non-cognizable offence."
"Non-cognizable case."

(*n*) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer, within or without a presidency-town, may not arrest without warrant :

---

1 Subs. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 2 (*1*), for original clause (*i*).

2 The word "and" rep. by the Amending Act, 1916 (13 of 1916), s. 2 and Sch.

3 Subs. for "the High Court of Judicature for the North-Western Provinces" by s. 2 and Sch., *ibid.*

4 The word "and" rep. by the Repealing and Amending Act, 1919 (18 of 1919).

5 Subs. for "Lahore and Rangoon, the Chief Court of Oudh and the Courts of the Judicial Commissioners of the Central Provinces and Sind" by the C. P. Courts (Supplementary) Act, 1935 (8 of 1935), s. 2 and Sch.

6 The word "Rangoon" rep. by the A. O.

7 Subs. by the A. O. for "G. G. in C.".

8 As to (1) the Sonthal Parganas, *see* the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 4 ; (2) Ajmer-Merwara, *see* the Ajmer Courts Regulation, 1926 (9 of 1926), s. 27 ; (3) Coorg, *see* s. 16 of the Coorg Courts Regulation, 1901 (1 of 1901) ; (4) the N.-W. F. P., *see* s. 6 (*1*) (*c*) of the N.-W. F. P. Law and Justice Regulation, 1901 (7 of 1901) ; (5) British Baluchistan, *see* Art. I in the Sch. to the British Baluchistan Criminal Justice Regulation, 1896 (8 of 1896) ; (6) Panth Piploda, *see* s. 8 of the Panth Piploda Courts Regulation, 1931 (6 of 1931).

(*o*) "offence" means any act or omission made punishable by any law for the time being in force ; "Offence."

it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 : I of 1871.

(*p*) "officer in charge of a police-station" includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the [1][Provincial Government] so directs, any other police-officer so present : "Officer in charge of a police-station."

(*q*) "place" includes also a house, building, tent and vessel : "Place."

(*r*) "pleader," used with reference to any proceeding in any Court, means a pleader [2][or a mukhtar] authorized under any law[3] for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorized, and (*2*) any [4]* * * other person appointed with the permission of the Court to act in such proceeding : "Pleader."

(*s*) "police-station" means any post or place declared, generally or specially, by the [1][Provincial Government] to be a police-station, and includes any local area specified by the [1][Provincial Government] in this behalf : "Police-station."

(*t*) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction : "Public Prosecutor."

(*u*) "sub-division" means a sub-division of a district : "Sub-division."

(*v*) "summons-case" means a case relating to an offence, and not being a warrant-case : and "Summons-case."

---

1 Subs. by the A. O. for "L. G.".

2 Ins. by the Code of Criminal Procedure (Further Amendment) Act, 1923 (35 of 1923), s. 2.

3 *See* the Legal Practitioners Act, 1846 (1 of 1846) ; the Legal Practitioners Act, 1853 (20 of 1853) ; the Legal Practitioners Act, 1879 (18 of 1879) ; the Legal Practitioners Act, 1884 (9 of 1884) ; and the Legal Practitioners (Amendment) Act, 1908 (1 of 1908).

In British Baluchistan, *see* s. 20 (*1*) (*c*) of the Sch. to the British Baluchistan Criminal Justice Regulation, 1896 (8 of 1896) ; in the N.-W. F. P., *see* s. 9 of the N.-W. F. P. Law and Justice Regulation, 1901 (7 of 1901) and the rules issued under that section in Gazette of India, 1902, Pt. II, p. 5.

4 The words "mukhtar or" rep. by the Code of Criminal Procedure (Further Amendment) Act, 1923 (35 of 1923), s. 2.

"Warrant-case."

(*w*) "warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months.

Words referring to acts.

(*2*) Words which refer to acts done, extend also to illegal omissions; and

Words to have same meaning as in Indian Penal Code.

all words and expressions used herein and defined in the Indian Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code. XLV of 1860

Trial of offences under Penal Code.

5. (*1*) All offences under the Indian Penal Code shall be investigated, inquired into, tried and otherwise dealt with according to the provisions hereinafter contained. XLV of 1860

Trial of offences against other laws.

(*2*) All offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

Classes of Criminal Courts.

[1]6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in ~~British India~~, namely :— x - the Province

I.—Courts of Session :

II.—Presidency Magistrates :

III.—Magistrates of the first class :

IV.—Magistrates of the second class :

V.—Magistrates of the third class.

B.—Territorial Divisions.

Sessions divisions and districts.

7. (*1*) Every province (excluding the presidency-towns) shall be a sessions division, or shall consist of sessions divisions : and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

[1] In places where the Frontier Crimes Regulation, 1901, is in force, cases may be tried by a Council of Elders. *See* the Frontier Crimes Regulation, 1901 (3 of 1901), s. 11 ; *see* also s. 13 of the same Regulation for executing sentences passed on the finding of a Council of Elders. For bar of second trial before any of these Courts, *see* same Regulation, s. 15.

(*Chapter II.—Of the constitution of Criminal Courts and Offices.*)

(*2*) The [1][Provincial Governments] may alter[2] the limits or [3]* * * the number of such divisions and districts. **Power to alter divisions and districts.**

(*3*) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered. **Existing divisions and districts maintained till altered.**

(*4*) Every presidency-town shall, for the purposes of this Code, be deemed to be a district. **Presidency-towns to be deemed districts.**

8. (*1*) The [4][Provincial Government] may divide[2] any district outside the presidency-towns into sub-divisions, or make any portion of any such district a sub-division and may alter the limits of any sub-division. **Power to divide districts into Sub-divisions.**

(*2*) All existing sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code. **Existing sub-divisions maintained.**

C.—Courts and Offices outside the Presidency-towns.

9. (*1*) The [4][Provincial Government] shall establish a Court of Session for every sessions division, and appoint a judge of such Court. **Court of Session.**

(*2*) The [4][Provincial Government] may, by general or special order in the Official Gazette, direct at what place or places the Court of Session shall hold its sitting ; but, until such order is made, the Courts of Session shall hold their sittings as heretofore.

(*3*) The [4][Provincial Government] may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

(*4*) A Sessions Judge of one sessions division may be appointed by the [4][Provincial Government] to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the [4][Provincial Government] may direct.

(*5*) All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

10. (*1*) In every district outside the presidency-towns the [4][Provincial Government] shall appoint a Magistrate of the first class, who shall be called the District Magistrate. **District Magistrate.**

(*2*) The [4][Provincial Government] may appoint any Magistrate of the first class to be an Additional District Magistrate [5]* * * * *

---

1 Subs. by the A. O. for "L. Gs.".

2 For notifications, *see* the different local Rules and Orders.

3 The words "with the previous sanction of the Governor General in Council" rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

4 Subs. by the A. O. for "L. G.".

5 The words "for a period not exceeding six months" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 2.

and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code, [1][or under any other law for the time being in force,] as the [2][Provincial Government] may direct.

[1][(*3*) For the purposes of sections 192, sub-section (*1*), 407, sub-section (*2*) and 528, sub-sections (*2*) and (*3*) such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.]

Officers temporarily succeeding to vacancies in office of District Magistrate.

11. Whenever in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the [2][Provincial Government], exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

Subordinate Magistrates.

12. (*1*) The [2][Provincial Government] may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district outside the presidency-towns; and the [2][Provincial Government] or the District Magistrate, subject to the control of the [2][Provincial Government] may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Local limits of their jurisdiction.

(*2*) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

Power to put Magistrate in charge of sub-division.

13. (*1*) The [2][Provincial Government] may place any Magistrate of the first or second class in charge of a sub-division, and relieve him of the charge as occasion requires.

(*2*) Such Magistrates shall be called Sub-divisional Magistrates.

Delegation of powers to District Magistrate.

(*3*) The [2][Provincial Government] may delegate its powers under this section to the District Magistrate.

Special Magistrates.

14. (*1*) The [2][Provincial Government] may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area outside the presidency-towns.

(*2*) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the [2][Provincial Government] may by general or special order direct.

---

[1] Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 2.

[2] Subs. by the A. O. for "L. G.".

(Chapter II.—Of the Constitution of Criminal Courts and Offices.)

(*3*) [1]* * * The [2][Provincial Government] may delegate, with such limitations as it thinks fit, to any officer under its control the powers conferred by sub-section (*1*).

(*4*) No powers shall be conferred under this section on any police-officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

Benches of Magistrates.

15. (*1*) The [2][Provincial Government] may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or, such classes of cases only, and within such local limits, as the [2][Provincial Government] thinks fit.

Powers exerciseable by Bench in absence of special direction.

(*2*) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

Power to frame rules for guidance of Benches.

16. The [2][Provincial Government] may, or, subject to the control of the [2][Provincial Government], the District Magistrate may, from time to time, make rules[3] consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :—

(*a*) the classes of cases to be tried ;

(*b*) the times and places of sitting ;

(*c*) the constitution of the Bench for conducting trials ;

(*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.

Subordination of Magistrates and Benches to District Magistrate ;

17. (*1*) All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches ; and

---

1 The words "with the previous sanction of the G. G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

2 Subs. by the A. O. for "L. G.".

3 For rules, *see* the different local Rules and Orders.

to sub-divisional Magistrate.

(*2*) Every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

Subordination of Assistant Sessions Judges to Sessions Judge.

(*3*) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such, Assistant Sesssions Judges.

(*4*) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge or, if there be no Additional or Assistant Judge, by the District Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application.

(*5*) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of Presidency Magistrates.

Appointment of Presidency Magistrates.

18. (*1*) The [1][Provincial Government] shall, from time to time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the presidency-towns, and shall appoint one of such persons to be Chief Presidency Magistrate for each such town.

(*2*) The powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate, or by a salaried Presidency Magistrate, or by any other Presidency Magistrate empowered by the [1][Provincial Government] to sit singly, or by any Bench of Presidency Magistrates.

[2][(*3*) A Presidency Magistrate may be appointed under this section for such term as the [1][Provincial Government] may, by general or special order, direct.

(*4*) The [1][Provincial Government] may appoint any person to be an Additional Chief Presidency Magistrate, and such Additional Chief Presidency Magistrate shall have all or any of the powers of a Chief Presidency Magistrate under this Code or under any other law for the time being in force, as the [1][Provincial Government] may direct.]

---

[1] Subs. by the A. O. for "L. G.".

[2] Sub-sections (*3*) and (*4*) ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 3.

(*Chapter II.—Of the Constitution of Criminal Courts and Offices.*)

19. Any two or more of such persons may (subject to the rules made by the Chief Presidency Magistrate under the power hereinafter conferred) sit together as a Bench. **Benches.**

20. Every Presidency Magistrate shall exercise jurisdiction in all places within the presidency-town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues. **Local limits of jurisdiction.**

21. (*1*) Every Chief Presidency Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Presidency Magistrate, and may, from time to time, with the previous sanction of the [1][Provincial Government], make rules[2] consistent with this Code to regulate— **Chief Presidency Magistrate.**

(*a*) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town ;

(*b*) the times and places at which Benches of Magistrates shall sit ;

(*c*) the constitution of such Benches ;

(*d*) the mode of settling differences of opinion which may arise between Magistrates in session ; and

(*e*) any other matter which could be dealt with by a District Magistrate under his general powers of control over the Magistrates subordinate to him.

(*2*) The [1][Provincial Government] may, for the purposes of this Code, declare what Presidency Magistrates [3][including Additional Chief Presidency Magistrates] are subordinate to the Chief Presidency Magistrate, and may define the extent of their subordination.

E.—Justices of the Peace.

[4][**22.** Every [1][Provincial Government], so far as regards the territories subject to its administration [5]* * *, may, by notification in the Official Gazette, appoint such [6][persons resident within ~~British India~~ and **Justices of the Peace for the mufassal.**

1 Subs. by the A. O. for "L. G.".
2 For rules, *see* the different local Rules and Orders.
3 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 4.
4 Subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for original section.
5 The words and brackets "(other than the presidency-towns)" rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 3.
6 Subs. by s. 3, *ibid*, for "European British subjects".

not being the subjects of any foreign State] as it thinks fit to be Justices of the Peace within and for the local area mentioned in such notification.]

23 and **24**. [*Justice of the Peace for the Presidency-towns. Present Justices of the Peace.*] *Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 4.*

Ex-officio Justices of the Peace.

25. In virtue of their respective offices, [1]* * * * * [2][the Judges of the High Courts] are Justices of the Peace within and for ~~the whole of British India~~, Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the [3][Provincial Government] under which they are serving, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

F.—Suspension and Removal.

26 and **27**. [*Suspension and removal of Judges and Magistrates. Suspension and removal of Justices of the Peace.*] *Rep. by the A. O.*

CHAPTER III.

Powers of Courts.

A.— Description of offences cognizable by each Court.

Offences under Penal Code.

28. Subject to the other provisions of this Code any offence under the Indian Penal Code may be tried— XLV of 1860.

(*a*) by the High Court, or

(*b*) by the Court of Session, or

(*c*) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

Illustration.

A is committed to the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

---

1 The words "the G. G., Governors, Lieutenant Governors, and Chief Commissioners, the Ordinary Members of the Council of the G. G., and" rep. by the A. O.

2 Subs. for "the Judges of the High Courts and the Recorder of Rangoon" by the Lower Burma Courts Act, 1900 (6 of 1900), s. 47 and Sch. I.

3 Subs. by the A. O. for "L. G.".

(*Chapter III.—Powers of Courts.*)

XLV of 1860. **29.** (*1*) Subject to the [1][other provisions of this Code], any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court. Offences under other laws.

(*2*) When no Court is so mentioned, it may be tried by the High Court or [2][subject as aforesaid] by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

[3][**29A.** No Magistrate of the second or third class shall inquire into or try any offence which is punishable otherwise than with fine not exceeding fifty rupees where the accused is an European British subject who claims to be tried as such.] Trial of European British subjects by second and third class Magistrates.

[4][**29B.** Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the [5][Provincial Government] to exercise the powers conferred by section 8, sub-section (*1*), of the Reformatory Schools Act, 1897, or, in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.] Jurisdiction in the case of juveniles.

VIII of 1897.

30. In ~~the territories respectively administered by the Lieutenant-Governors of the Punjab[6] * * and the Chief Commissioners of~~ Oudh, the Central Provinces, Coorg and Assam, ~~in Sind~~ and in those parts of the other provinces in which there are Deputy Commissioners or Assistant Commissioners the [5][Provincial Government] may, notwithstanding anything contained in section 29, invest the District Magistrate or any Magistrate of the first class, with power to try as a Magistrate all offences not punishable with death. Offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

31. (*1*) A High Court may pass any sentence authorized by law. Sentences which High Courts and Sessions Judges may pass.

(*2*) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law ; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

---

1 Subs. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 5, for "provisions of s. 447".

2 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 5.

3 Ins. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 6.

4 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 6.

5 Subs. by the A. O. for "L. G.".

6 The words "and Burma" rep. by the A. O.

(*3*) An Assistant Sessions Judge may pass any sentence authorised by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years.

Sentences which Magistrates may pass.

32. (*1*) The Courts of Magistrates may pass the following sentences, namely :—

(*a*) Courts of Presidency Magistrates and of Magistrates of the first class :	Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law ; Fine not exceeding one thousand rupees ; Whipping.
(*b*) Courts of Magistrates of the second class :	Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law ; Fine not exceeding two hundred rupees ; [1]* * * * * * *
(*c*) Courts of Magistrates of the third class :	Imprisonment for a term not exceeding one month ; Fine not exceeding fifty rupees.

(*2*) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

[2]* * * * * * *

Power of Magistrates to sentence to imprisonment in default of fine

33. (*1*) The Court of any Magistrate may award such terms of imprisonment in default of payment of fine as is authorised by law in case of such default :

Proviso as to certain cases.

Provided that—

(*a*) the term is not in excess of the Magistrate's powers under this Code ;

(*b*) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(*2*) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

Higher powers of certain District Magistrates.

34. The Court of a Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or imprisonment for a term exceeding seven years.

---

[1] The words "Whipping (if specially empowered)" rep. by the Whipping Act, 1909 (4 of 1909), s. 8 and Sch.

[2] Sub-section (*3*) rep. by, *ibid.*

(*Chaper III.—Powers of Courts.*)

[1][34A. Notwithstanding anything contained in sections 31, 32 and 34—

Sentences which Courts and Magistrates may pass upon European British subjects.

(*a*) no Court of Session shall pass on any European British subject any sentence other than a sentence of death, penal servitude, or imprisonment with or without fine, or of fine, and

(*b*) no District Magistrate or other Magistrate of the first class shall pass on any European British subject any sentence other than imprisonment which may extend to two years, or fine which may extend to one thousand rupees, or both.]

Sentence in cases of conviction of several offences at one trial.

35. (*1*) [2][When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code.] sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict ; such punishments, when consisting of imprisonment or transportation to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

XLV of 1860.

(*2*) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court :

Provided as follows :—

Maximum term of punishment.

(*a*) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years ;

(*b*) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

(*3*) For the purpose of appeal, [3][the aggregate of consecutive] sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

[4] * * * * * *

C.—Ordinary and Additional Powers.

Ordinary powers of Magistrates.

36. All District Magistrates, Sub-Divisional Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."

---

1 Ins. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 7.

2 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 7, for "When a person is convicted at one trial of two or more distinct offences, the Court may".

3 Subs. by s. 7, *ibid*, for "aggregate".

4 The Explanation and Illustration to s. 35 rep. by s. 7, *ibid*.

(*Chapter III.—Powers of Courts. Chapter IV.—Of Aid and Information to the Magistrates, the Police, and Persons making Arrests.*)

Additional powers conferrable on Magistrates.

37. In addition to his ordinary powers, any sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the [1][Provincial Government] or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the [1][Provincial Government] or the District Magistrate.

Control of District Magistrates investing power.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the [1][Provincial Government].

D.—Conferment, Continuance and Cancellation of Powers.

Mode of conferring powers.

39. (*1*) In conferring powers under this Code the [1][Provincial Government] may by order, empower persons specially by name or in virtue of their office or classes of officials generally by their official titles.

(*2*) Every such order shall take effect from the date on which it is communicated to the person so empowered.

Powers of officers appointed.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is [2][appointed] to an equal or higher office of the same nature, within a like local area under the same [1][Provincial Government], he shall, unless the [1][Provincial Government] otherwise directs, or has otherwise directed, [3] * * exercise the same powers in the local area [4][in which] he is so [2][appointed].

Powers may be cancelled.

41. (*1*) The [1][Provincial Government] may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it.

(*2*) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

Public when to assist Magistrate and police.

42. Every person is bound to assist a Magistrate or police officer reasonably demanding his aid, whether within or without the presidency-towns,—

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorized to arrest ;

---

1 Subs. by the A. O. for "L. G.".

2 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 8, for "transferred".

3 The words "continue to" rep. by s. 8, *ibid.*

4 Subs. by s. 8, *ibid*, for "to which".

(*Chapter IV.—Of Aid and Information to the Magistrates, the Police, and Persons making Arrests.*)

(*b*) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

Aid to person, other than police-officer, executing warrant.

43. When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences.

44. (*1*) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit any offence punishable under any of the following sections of the Indian Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention.

XLV of 1860.

(*2*) For the purposes of this section the term "offence" includes any act committed at any place out of ~~British India~~ which would constitute an offence if committed in British India.

Village-headmen, accountants, landholders and others bound to report certain matters.

45. (*1*) Every village-headman, village-accountant, village-watchman, village police-officer, owner or occupier of land, and the agent of any such owner or occupier [1][in charge of the management of that land], and every officer employed in the collection of revenue or rent of land on the part of [2][the Crown] or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station whichever is the nearer, any information which he may [3][possess] respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent ;

(*b*) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects to be a thug, robber, escaped convict or proclaimed offender ;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147, or 148 of the Indian Penal Code ;

XLV of 1860.

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 9.

2 Subs. by the A. O. for "Govt.".

3 Subs. by Act 18 of 1923, s. 9, for "obtain".

(Chapter IV.—Of Aid and Information to the Magistrates, the Police, and Persons making Arrests.)

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances [1][or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person ;]

(*e*) the commission of, or intention to commit, at any place out of ~~British India~~ near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, [1][231, 232, 233, 234, 235, 236, 237, 238,] 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, [2][460, 489A, 489B, 489C, and 489D] ; XLV of 1860.

(*f*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the [3][Provincial Government], has directed him to communicate information.

(*2*) In this section—

(*i*) "village" includes village-lands ; and

(*ii*) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the [4][Central Government or the Crown Representative] in any part of India, in respect of any act which if committed in ~~British India~~, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460. XLV of 1860.

Appointment of village-headmen by District Magistrate or

(*3*) Subject to rules in this behalf to be made by the [3][Provincial Government], the District Magistrate [1][or Sub-divisional Magistrate] may from time to time appoint one or more persons [1][with his or their

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 9.

2 Subs. by s. 9, *ibid*, for "and 460".

1937 3 Subs. by the A. O. for "L. G.".

4 Subs. by the A. O. for "G. G. in C.".

consent] [1][to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law.]

Sub-divisional Magistrate in certain cases for purposes of this section.

CHAPTER V.

Of Arrest, Escape and Retaking.

A.—Arrest generally.

Arrest how made.

46. (1) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with transportation for life.

Search of place entered by person sought to be arrested.

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Procedure where ingress not obtainable.

48. If ingress to such place cannot be obtained under section 47 it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance :

Breaking open zanana.

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 9, for "to be village-headmen for the purposes of this section in any village for which there is no such headman appointed under any other law".

(*Chapter V.—Of Arrest, Escape and Retaking.*)

Power to break open doors and windows for purposes of liberation.

49. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Search of arrested persons.

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

Mode of searching women.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

Power to seize offensive weapons.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant.

When police may arrest without warrant.

54. (*1*) Any police-officer may, without an order from a Magistrate and without a warrant, arrest—

first, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned ;

secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking ;

thirdly, any person who has been proclaimed as an offender either under this Code or by order of the [1][Provincial Government] ;

fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property [2][and]

1 Subs. by the A. O. for "L. G.".
2 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 10, for "or".

who may reasonably be suspected of [illegible]

B- (" or from any unit of Indian States Forces under the Indian Extradition Act 1903(XV of 1903), to be unit desertion from which is an extradition offence;")

Her Majesty's [1][Army, Navy or Air Force] [2]* *

seventhly, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of ~~British India~~, which, if committed in ~~British India~~, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the [3]Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in ~~British India~~; [4] * * *.

44 & 45 Vict, c. 60.

eighthly, any released convict committing a breach of any rule made under section 565, sub-section (3);

[5][*ninthly*, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.]

(2) This section applies also to the police in the town[6]* of Calcutta [6]* *.

Arrest of vagabonds, habitual robbers, etc.

[7]55. (1) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested—

(*a*) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

1 Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "Army or Navy".

2 The words "or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service" rep. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

3 Coll. Stat.

4 The word "and" rep. by the Repealing and Amending Act, 1927 (10 of 1927), s. 3 and Sch. II.

5 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 10.

6 The letter "s" and the words "and Bombay" rep. by the City of Bombay Police Act, 1902 (Bom. 4 of 1902), s. 2 (*1*) and Sch. A.

7 In the N.-W. F. P., any police-officer may exercise the powers conferred by this section on a police-officer in charge of a police-station, *see* the N.-W. F. P. Law and Justice Regulation, 1901 (7 of 1901), s. 13.

(*b*) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself ; or

(*c*) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

(*2*) This section applies also to the police in the town*[1] of Calcutta[1x] * *.

Procedure when police-officer deputes subordinate to arrest without warrant.

56. (*1*) When any officer in charge of a police-station [2][or any police-officer making an investigation under Chapter XIV] requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made. [2][The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.]

(*2*) This section applies also to the police in the town*[1] of Calcutta [1]* * *.

Refusal to give name and residence.

57. (*1*) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in ~~British India~~, the bond shall be secured by a surety or sureties resident in ~~British India~~.

(*3*) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

---

[1] The letter " s " and the words " and Bombay " rep. by the City of Bombay Police Act, 1902 (Bom. 4 of 1902), s. 2 (*1*) and Sch. A.

[2] Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 11.

(*Chapter V.—Of Arrest, Escape and Retaking.*)

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter, pursue such person into any place in ~~British India~~. Pursuit of offenders into other jurisdictions

59. [1][(*1*) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and without unnecessary delay, shall make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person or cause him to be taken in custody to the nearest police-station.] Arrest by private persons and procedure on such arrest.

(*2*) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(*3*) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

60. A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station. Person arrested to be taken before Magistrate or officer in charge of police-station.

61. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court. Person arrested not to be detained more than twenty-four hours.

62. Officers in charge of police-stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise. Police to report apprehensions.

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate. Discharge of person apprehended.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail commit the offender to custody. Offence committed in Magistrate's presence.

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 12, for original sub-section.

(Chapter V.—Of Arrest, Escape and Retaking. Chapter VI.—Of Processes to compel Appearance.)

Arrest by or in presence of Magistrate.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Power, on escape, to pursue and retake.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in ~~British India~~. the Provinces (A)

Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

Form of summons.

68. (*1*) Every summons issued by a Court under this Code shall be in writing in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct.

Summons by whom served.

(*2*) Such summons shall be served by a police-officer, or subject to such rules as the [1][Provincial Government] may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

Summons how served.

69. (*1*) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Signature of receipt for summons.

(*2*) Every person on whom a summons is so served shall if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

(*3*) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in ~~British India~~. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Service when person summoned cannot be found.

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him ; and the person

1937

[1] Subs. by the A. O. for "L. G.".

with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when service cannot be effected as before provided.

71. If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on servant of Crown or of Railway Company.

72. (*1*) Where the person summoned is in the active service of the [1][Crown] or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed: and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section.

(*2*) Such signature shall be evidence of due service.

Service of summons outside local limits.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases and when serving officer not present.

74. (*1*) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(*2*) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.

Form of warrant of arrest.

75. (*1*) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Continuance of warrant of arrest.

(*2*) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Court may direct security to be taken.

76. (*1*) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by

[1] Subs. by the A. O. for "Govt.".

the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(*2*) The endorsement shall state—

(*a*) the number of sureties ;

(*b*) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound ; and

(*c*) the time at which he is to attend before the Court.

Recognizance to be forwarded.

(*3*) Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants to whom directed.

77. (*1*) A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed ; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons ; and such person or persons shall execute the same.

Warrants to several persons.

(*2*) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

Warrant may be directed to landholders, etc.

78. (*1*) A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

(*2*) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(*3*) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

Warrant directed to police-officer.

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed

Notification of substance of warrant.

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Person arrested to be brought before Court without delay.

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

(*Chapter VI.—Of Processes to compel Appearance.*)

82 A warrant of arrest may be executed at any place in ~~British India~~. the Provinces (B) Where warrant may be executed.

83. (*1*) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction it is to be executed. Warrant forwarded for execution outside jurisdiction.

[1](*2*) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

84 (*1*) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed. Warrant directed to police-officer for execution outside jurisdiction.

(*2*) Such Magistrate or police-officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(*3*) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

(*4*) This section applies also to the police in the town[2] of Calcutta[2] * * *.

[3]**85.** When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent. Procedure on arrest of person against whom warrant issued.

---

1 This sub section, so far as it applies to the police in the Town of Bombay, rep. by the City of Bombay Police Act, 1902 (Bom. 4 of 1902), s. 2 (*1*) and Sch. A.

2 The letter "s" and the words "and Bombay" rep., *ibid.*

3 Ss. 85 and 86, so far as they apply to the police in the Town of Bombay, rep., *ibid.*

(*Chapter VI.—Of Processes to compel Appearance.*)

Procedure by Magistrate before whom person arrested is brought.

[1]86. (*1*) Such Magistrate or District Superintendent or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court.

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

(*2*) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

C.—Proclamation and Attachment.

Proclamation for person absconding.

87. (*1*) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(*2*) The proclamation shall be published as follows :—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;

(*b*) it shall be ~~fixed~~ to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village ; and

(*c*) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(*3*) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

Attachment of property of person absconding.

88. (*1*) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

(*2*) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made ; and it shall authorize the attachment of any property belonging to such person without such district when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate.

---

[1] *See* foot-note 3 on pre-page.

(*3*) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made—

(*a*) by seizure ; or

(*b*) by the appointment of a receiver ; or

(*c*) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf ; or

(*d*) by all or any two of such methods, as the Court thinks fit.

(*4*) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to [1][the Provincial Government], be made through the Collector of the district in which the land is situate, and in all other cases—

(*e*) by taking possession ; or

(*f*) by the appointment of a receiver ; or

(*g*) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf ; or

(*h*) by all or any two of such methods, as the Court thinks fit.

(*5*) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court

(*6*) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure.[2]

XIV of 1882.

[3][(*6A*) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part :

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(*6B*) Claims or objections under sub-section (*6A*) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order

1 Subs. by the A. O. for "Govt.".

2 *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

3 Sub-sections (*6A*) to (*6E*) ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 13.

endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub-section (*2*), in the Court of such Magistrate.

(*6C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made :

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him.

(*6D*) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (*6A*) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute ; but subject to the result of such suit, if any, the order shall be conclusive.

(*6E*) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.]

(*7*) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of [1][the Provincial Government], but it shall not be sold until the expiration of six months from the date of the attachment [2][and until any claim preferred or objection made under sub-section (*6A*) has been disposed of under that sub-section], unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

Restoration of attached property.

89. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of [1][the Provincial Government], under sub-section (*7*) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other Rules regarding Processes.

Issue of warrant in lieu of, or in

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a

1 Subs. by the A. O. for "Govt.".

2 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 13.

*1-(E-. Special rules regarding processes issued for serviceor execution out side the Provinces and processes received from outside the Provinces for service or execution with in the Provinces.

93A. (1) Where a Court in the Provinces desires that summons issued by it to an accused person shall be served at any place outside the Provinces within the local limits of the jurisdiction of a court established or conti--nued by the authority of the Central Govt;the Provinces in any part of India,it shall send such summons,induplicate by post or otherwise, to the Presiding Officer of that Court to be served.

Sending of summons for service out--side the Provinces.

(2) The provision of section 74 shall apply in the case of a summons sent for service under this section as if the presiding Officer of the Court to whom it was sent were a Magistrate in the Provinces.

93B. Notwithstanding any thing contained in section 82,where a Court in the Provinces desires that a a warrant issued by it for the arrest of anaccd person shall be executed at any place outside the Provinceswithin the local limits of the jurisdiction of a Court established or continued bythe authority of the Central Government the Provinces in any part of India,it may send such warrant,by post or therwise, to the Presiding Officer of that court to be executed.

Sending of Warrants fo execution outside the Provinces.

93C. (1) Where a Court has received for service or execution a summon to, or a warrant for the arrest of,an accused person issued by a Court established or continued by the authority of the Central Government,the Provinces in any part of India outside the Provinces,it shall cause the same to be served or executed as it were a summon or warrant received by it from a Court in the Provinces for service or execution within the local local limits of its jurisdiction.

Service & execution in the Provinces of processes received from outside the Provinces.

(2) Where any warranr of arrest has been so executed the person arrested shall so far as possible be dealt with in accordance with the procedure prescribed by section 85 & 86)

juror or assessor, issue, after recording its reasons in writing, a warrant for his arrest— addition to summons.

(*a*) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons ; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court. Power to take bond for appearance.

92. When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him. Arrest by breach of bond for appearance.

93. The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code. Provisions of this Chapter generally applicable to summonses and warrants of arrest.

CHAPTER VII.

Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.

A.—Summons to produce.

94. (*1*) Whenever any Court, or in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order. Summons to produce document or other thing.

(*2*) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(*Chapter VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.*)

(*3*) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities. I of 1872.

Procedure as to letters and telegrams.

95. (*1*) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(*2*) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

B.—Search-warrants.

When search-warrant may be issued.

96. (*1*) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, sub-section (*1*), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant ; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(*2*) Nothing herein contained shall authorize any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

Power to restrict warrant.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend ; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Search of house

98. (*1*) If a District Magistrate, Sub-divisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and

(Chapter VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.)

after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, suspected to contain stolen property, forged documents, etc.

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

[1][or, if a District Magistrate, Sub-divisional Magistrate or a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in section 292 of the Indian Penal Code or that any such obscene objects are kept or deposited in any place ;] XLV of 1860.

he may by his warrant authorize any police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, such place, and

(*b*) to search the same in manner specified in the warrant, and

(*c*) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials [1][or of any such obscene objects] as aforesaid, and

(*d*) to convey such property, documents, seals, stamps, coins, instruments or materials [1][or such obscene objects] before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials [1][or such obscene objects] knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting

1 Ins. by the Obscene Publications Act, 1925 (8 of 1925), s. 3.

(Chapter VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.)

coin or stamps or for forging [1][or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported.]

(*2*) The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply respectively to—

(*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into ~~British India~~ in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878, I of 1889. VIII of 1878.

(*b*) pieces of metal suspected to have been so made or to have been so brought into ~~British India~~ or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act.

Disposal of things found in search beyond jurisdiction.

99. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate ; and, unless there be good cause to the contrary, such Magistrate shall make an order authorizing them to be taken to such Court.

Power to declare certain publications forfeited and to issue search-warrants for the same.

[2][**99A.** (*1*) Where—

(*a*) any newspaper, or book as defined in the Press and Registration of Books Act, 1867, or XXV of 1867.

(*b*) any document,

wherever printed, appears to the [3][Provincial Government] to contain any seditious matter [4][or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of His Majesty's subjects] [5][or which is deliberately and maliciously intended to outrage

---

1 Ins. by the Obscene Publications Act, 1925 (8 of 1925), s. 3.

2 Ss. 99A to 99G ins. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 5 & Sch. III.

1937 3 Subs. by the A. O. for "L. G.".

4 Ins. by the Code of Criminal Procedure (Third Amendment) Act, 1926 (36 of 1926), s. 2.

5 Ins. by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 3.

(*Chapter VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.*)

the religious feelings of any such class by insulting the religion or the religious beliefs of that class], that is to say, any matter the publication of which is punishable under section 124A [1][or section 153A] [2][or section 295A] of the Indian Penal Code, the [3][Provincial Government] may, by notification in the [4][Official Gazette], stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any police officer may seize the same wherever found in ~~British India~~ and any Magistrate may by warrant authorize any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

XLV of 1860.

(*2*) In sub-section (*1*) "document" includes also any painting, drawing or photograph, or other visible representation.

99B. Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made, did not contain any [5][seditious or other matter of such a nature as is referred to in sub-section (*1*) of section 99A].

Application to High Court to set aside order of forfeiture.

99C. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges.

Hearing by Special Bench.

99D. (*1*) On receipt of the application, the Special Bench shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained [6][seditious or other matter of such a nature as is] referred to in sub-section (*1*) of section 99A, set aside the order of forfeiture.

Order of Special Bench setting aside forfeiture.

(*2*) Where there is a difference of opinion among the Judges forming the Special Bench the decision shall be in accordance with the opinion of the majority of those Judges.

99E. On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs

Evidence to prove nature or tendency of newspapers.

---

1 Ins. by the Code of Criminal Procedure (Third Amendment) Act, 1926 (26 of 1926), s. 2.

2 Ins. by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 3.

3 Subs. by the A. O. for "L. G.".

4 Subs. by the A. O. for "local official Gazette".

5 Subs. by the Code of Criminal Procedure (Third Amendment) Act, 1926 (26 of 1926), s. 3, for "seditious matter".

6 Subs. by s. 4, *ibid*, for "seditious matter of the nature".

(*Chapter VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.*)

or visible representations contained in such newspaper, [1][in respect of which the order of forfeiture was made.]

Procedure in High Court.

99F. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed, the practice of such Courts in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Jurisdiction barred.

99G. No order passed or action taken under section 99A shall be called in question in any Court otherwise than in accordance with the provisions of section 99B.]

C.—Discovery of Persons wrongfully confined.

Search for persons wrongfully confined.

100. If any Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined ; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

D.—General Provisions relating to Searches.

Direction, etc, of search warrants.

101. The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98, [2][section 99A] or section 100.

Persons in charge of closed place to allow search.

102. (*1*) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(*2*) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(*3*) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

Search to be made in presence of witnesses.

103. (*1*) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable

[1] Subs. by the Code of Criminal Procedure (Third Amendment) Act, 1926 (26 of 1926), s. 5, for "which are alleged to be seditious matter".

[2] Ins. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 5 and Sch. III.

(*Chapter VII.—Of processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined. Chapter VIII.—Of Security for keeping the Peace and for Good Behaviour.*)

inhabitants of the locality in which the place to be searched is situate to attend and witness the search [1][and may issue an order in writing to them or any of them so to do].

(*2*) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses ; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(*3*) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request. **Occupant of place searched may attend.**

(*4*) When any person is searched under section 102, sub-section (*3*), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

[1][(*5*) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code.]

XLV of 1860

E.—Miscellaneous.

104. Any Court may, if it thinks fit, impound any document or thing produced before it under this Code. **Power to impound document, etc., produced.**

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant. **Magistrate may direct search in his presence.**

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.[2]

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

106. (*1*) Whenever any person accused of [3][any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence **Security for keeping the peace on conviction.**

XLV of 1860.

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 14.

2 Ss. 20 to 26 of the Sind Frontier Regulation, 1892 (3 of 1892), are to be read with and construed as part of this Chapter—*see* s. 27 of that Regulation, and s. 3, *supra*.

3 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 15, for "rioting".

punishable under section 143, section 149, section 153A or section 154 thereof, or of] assault or other offence involving a breach of the peace, or of abetting the same, [1]* * *, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(*2*) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(*3*) An order under this section may also be made by an Appellate Court [2][including a Court hearing appeals under section 407] or by the High Court when exercising its powers of revision.

B.—Security for keeping the Peace in other Cases and security for Good Behaviour.

Security for keeping the peace in other cases.

107. (*1*) Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate [3][if in his opinion there is sufficient ground for proceeding] may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

(*2*) Proceedings shall not be taken under this section unless either the person informed against or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a Chief Presidency or District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

---

1 The words "or of assembling armed men or taking other unlawful measures with the evident intention of committing the same," rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 15.

2 Ins. by s. 15, *ibid.*

3 Ins. by s. 16, *ibid.*

(*Chapter VIII.—Of Security for keeping the Peace and for Good Behaviour.*)

Procedure of Magistrate not empowered to act under sub-section (1).

(*3*) When any Magistrate not empowered to proceed under sub-section (*1*) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(*4*) A Magistrate before whom a person is sent under [1][sub-section (*3*)] may in his discretion detain such person in custody [2][pending further action by himself under this Chapter].

Security for good behaviour from persons disseminating seditious matter.

108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the [3][Provincial Government] in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing [4][or in any other manner intentionally] disseminates or attempts to disseminate, or in anywise abets the dissemination of,—

(*a*) any seditious matter, that is to say, any matter the publication of which is punishable under section 124-A of the Indian Penal Code, or

XLV of 1860.

(*b*) any matter the publication of which is punishable under section 153-A of the Indian Penal Code, or

(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such Magistrate, [4][if in his opinion there is sufficient ground for proceeding] may (in ~~matter~~ manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, [5][and edited, printed and published] in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, [4][with refer-

XXV of 1867.

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 16, for "this section".

2 Subs. by s. 16, *ibid*, for "until the completion of the inquiry hereinafter prescribed".

3 Subs. by the A. O., for "L. G.".

4 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 17.

5 Subs. by s. 17, *ibid*, for "or printed or published".

ence to any matters contained in such publication] except by the order or under the authority of [1] * * * * the [2][Provincial Government] or some officer empowered [3][by the Provincial Government] in this behalf.

Security for good behaviour from vagrants and suspected persons.

109. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information—

(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or

(*b*) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

Security for good behaviour from habitual offenders.

110. Whenever a Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the [2][Provincial Government] receives information that any person within the local limits of his jurisdiction—

(*a*) is by habit a robber, house-breaker, [4] * thief, [5][or forger], or

(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or

(*c*) habitually protects or harbours thieves or aids, in the concealment or disposal of stolen property, or

[6][(*d*) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code, or under section 489-A, section 489-B, section 489-C or section 489-D of that Code, or] XLV of 1860.

(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or

---

1 The words "the G G in C or" rep. by the A. O.

2 Subs. by the A. O. for "L. G.".

3 Subs. by the A. O. for "by the G G in C".

4 The word "or" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 18.

5 Ins. by s. 18, *ibid.*

6 Subs. by s. 18, *ibid*, for original cl. (*d*).

(*Chapter VIII.—Of Security for keeping the Peace and for Good Behaviour.*)

(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.

111. [*Proviso as to European vagrants,*] *Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 8.*

Order to be made.

[1], [2]**112.** When a Magistrate acting under section 107, section 108, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

Procedure in respect of person present in Court.

[1], [2]**113.** If the person in respect of whom such order is made is present in Court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him.

Summons or warrant in case of person not so present.

[2]**114.** If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court :

Provided that whenever it appears to such Magistrate, upon the report of a police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest

Copy of order under section 112 to accompany summons or warrant

[1], [2]**115.** Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

---

1 Ss. 112, 113, 115 and 117 do not apply to an enquiry under s. 22 of the Sindh Frontier Regulation, 1892 (3 of 1892), or under s. 42 of the Frontier Crimes Regulation, 1901 (3 of 1901).

2 Ss. 112 to 121 and 123 to 126 and s. 514 apply to all cases requiring security for good behaviour under s. 6 of the Punjab Frontier Crossing Regulation, 1873 (7 of 1873).

(Chapter VIII.—Of Security for keeping the Peace and for Good Behaviour.)

Power to dispense with personal attendance.

[1]116. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

Inquiry as to truth of information.

[1], [2]117. (*1*) When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(*2*) Such inquiry shall be made, as nearly as may be practicable where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials and recording evidence in summons-cases ; and where the order requires security for good behaviour in the manner hereinafter prescribed for conducting trials and recording evidence in warrant-cases, except that no charge need be framed.

[3][(*3*) Pending the completion of the inquiry under sub-section (*1*) the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded :

Provided that :—

(*a*) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behaviour, and

(*b*) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112.]

---

1 *See* footnote 2 to s. 112, *supra.*

2 *See* footnote 1 to s. 112 *supra.*

3 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 19.

(Chapter VIII.—Of Security for keeping the Peace and for Good Behaviour.)

[1][(4)]For the purposes of this section the fact that a person is an habitual offender [2][or is so desperate and dangerous as to render his being at large without security hazardous to the community] may be proved by evidence of general repute or otherwise.

[1][(5)] Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

Order to give security.

[3]**118.** (*1*) If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties the Magistrate shall make an order accordingly :

Provided—

first, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112 :

secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive :

thirdly, that when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

Discharge of person informed against.

[3]**119.** If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.—Proceedings in all Cases subsequent to Order to furnish Security.

Commencement of period for which security is required.

[3]**120.** (*1*) If any person, in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment the period for which such security is required shall commence on the expiration of such sentence

---

1 Original sub-sections (*3*) and (*4*) renumbered (*4*) and (*5*) respectively by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 19.

2 Ins. by s. 19, *ibid.*

3 *See* footnote 2 to s. 112, *supra.*

(*Chapter VIII.—Of Security for keeping the Peace and for Good Behaviour*).

(*2*) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

Contents of bond.

[1]**121.** The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Power to reject sureties.

[2][**122.** (*1*) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond :

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(*2*) Such Magistrate shall, before holding inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall in making the inquiry record the substance of the evidence adduced before him

(*3*) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (*1*), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing :

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him.]

Imprisonment in default of security.

[1]**123.** (*1*) If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison be detained in prison until such period expires or until within such period he gives the security to the Court or Magistrate who made the order requiring it.

Proceedings when to be laid before High Court or Court of Sessions.

(*2*) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant direct-

1 *See* footnote 2 to s. 112, *supra*.

2 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 20, for original section.

ing him to be detained in prison pending the orders of the Sessions Judge or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court ; and the proceedings shall be laid, as soon as conveniently may be, before such Court.

(*3*) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit :

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

[1][(*3A*) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge or the High Court under sub-section (*2*), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (*2*) and (*3*) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(*3B*) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (*2*) or sub-section (*3-A*) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.]

(*4*) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(*5*) Imprisonment for failure to give security for keeping the peace shall be simple. **Kind of imprisonment.**

(*6*) Imprisonment for failure to give security for good behaviour [2][shall, where the proceedings have been taken under section 108 [3]* * be simple and, where the proceedings have been taken under [4][section 109 or] section 110], be rigorous or simple as the Court or Magistrate in each case directs.

---

1 Sub-sections (*3A*) and (*3B*) ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 21.

2 Subs. by s. 21, *ibid*, for " may ".

3 The words and figures " or section 109 " rep. by the Code of Criminal Procedure (Second Amendment) Act, 1926 (10 of 1926), s. 2.

4 Ins. by s. 2, *ibid*.

(*Chapter VIII.—Of Security for keeping the Peace and for Good Behaviour.*)

Power to release persons imprisoned for failing to give security.

[1]**124.** (*1*) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter [2]* * * may be released without hazard to the community or to any other person, he may order such person to be discharged.

(*2*) Whenever any person has been imprisoned for failing to give security under this Chapter, the Chief Presidency or District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

[3][(*3*) An order under sub-section (*1*) may direct the discharge of such person either without conditions or upon any conditions which such person accepts :

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired.]

[4][(*4*) The [5][Provincial Government] may prescribe the conditions upon which a conditional discharge may be made.]

[4][(*5*) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate or Chief Presidency Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.]

[4][(*6*) When a conditional order of discharge has been cancelled under sub-section (*5*), such person may be arrested by any police officer without warrant, and shall thereupon be produced before the District Magistrate or Chief Presidency Magistrate.

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate or Chief Presidency Magistrate may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in

1 *See* footnote 2 to s. 112, *supra.*

2 The words "whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate," rep. by Act 18 of 1923, s. 22.

3 Subs. for the original sub-section (*3*) by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 22.

4 Sub-sections (*4*), (*5*) and (*6*) ins. by s. 22, *ibid.*

5 Subs. by the A. O. for "L. G.".

accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.]

[1]**125.** The Chief Presidency or District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court.

Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.

[1]**126.** (*1*) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

Discharge of sureties.

(*2*) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

[2][**126A.**] [3][When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (*3*) of section 122 or under section 126, sub-section (*2*), appears or is brought before him, the Magistrate shall cancel the bond executed by such person] and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

Security for unexpired period of bond.

CHAPTER IX.[4]

Unlawful Assemblies.

127. (*1*) Any Magistrate or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse ; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Assembly to disperse on command of Magistrate or police-officer.

(*2*) This section applies also to the police in the town[5] of Calcutta [5]* * * *.

---

1 *See* footnote 2 to s. 112, *supra*.

2 Sub-section (*3*) of s. 126 renumbered as s. 126A by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 23.

3 Subs. by s. 23, *ibid*, for "When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond".

4 The whole of this Chapter, so far as it applies to the City of Bombay, rep. by the City of Bombay Police Act, 1902 (Bom. 4 of 1902), s. 2 (*1*) and Sch. A.

5 The letter "s" and the words "and Bombay" rep *ibid*.

Use of civil force to disperse.

128. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police-station, whether within or without the presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer [1][, soldier, sailor or airman in His Majesty's Army, Navy or Air Force] or a volunteer enrolled under the Indian Volunteers Act, 1869,[2] and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law. XX of 1869.

Use of military force.

129. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

Duty of officer commanding troops required by Magistrate to disperse assembly.

130. (*1*) When a Magistrate determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869,[2] to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law. XX of 1869.

(*2*) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Power of commissioned military officers to disperse assembly.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such Assembly or that they may be punished according to law ; but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

---

1 Subs. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch., for "or soldier in Her Majesty's Army".

2 Rep. by the Auxiliary Force Act, 1920 (49 of 1920).

132. No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any Criminal Court, except with sanction of the [1][Provincial Government] ; and— Protection against prosecution for act done under this Chapter.

(*a*) no Magistrate or police-officer acting under this Chapter in good faith,

(*b*) no officer acting under section 131 in good faith,

(*c*) no person doing any act in good faith, in compliance with a requisition under section 128 or section 130, and

(*d*) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence :

[2][Provided that no such prosecution shall be instituted in any Criminal Court against any officer or soldier in His Majesty's Army except with the sanction of the [3][Central Government].]

CHAPTER X.

PUBLIC NUISANCES.

[4][**133.** (*1*) Whenever a District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit, Conditional order for removal of nuisance.

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

1 Subs. by the A. O. for "L G", which had been subs. for "G. G. in C." by the Devolution Act, 1920 (38 of 1920), s 2 and Sch. I.

2 This proviso was ins by Act 38 of 1920, s. 2 and Sch. I.

3 Subs. by the A. O. for "G. G. in C.".

4 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 24, for original s. 133.

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance ; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation ; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed ; or

to prevent or stop the erection of, or to remove, repair or support. such building, tent or structure ; or

to remove or support such tree ; or

to alter the disposal of such substance ; or

to fence such tank, well or excavation, as the case may be ; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order ;

or, if he objects so to do,

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

(*2*) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A ' public place ' includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.]

Service or notification of order.

134. (*1*) The order shall, if practicable, be served on the person against whom it is made, in manner herein provided for service of a summons.

(*2*) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the [1][Provincial Government] may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

---

[1] Subs. by the A. O. for " L. G.".

135. The person against whom such order is made shall— Person to whom order is addressed to obey or show cause or claim jury.

(*a*) perform, within the time [1][and in the manner] specified in the order, the act directed thereby ; or

(*b*) appear in accordance with such order and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a jury to try whether the same is reasonable and proper.

136. If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 135, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code, and the order shall be made absolute. Consequence of his failing to do so.

XLV of 1860.

137. (*1*) If he appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case. Procedure where he appears to show cause.

(*2*) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(*3*) If the Magistrate is not so satisfied, the order shall be made absolute.

138. (*1*) On receiving an application under section 135 to appoint a jury, the Magistrate shall— Procedure where he claims jury.

(*a*) forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant ;

(*b*) summon such foreman and members to attend at such place and time as the Magistrate thinks fit ; and

(*c*) fix a time within which they are to return their verdict.

(*2*) The time so fixed may, for good cause shown, be extended by the Magistrate.

139. (*1*) If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any). Procedure where jury finds Magistrate's order to be reasonable.

(*2*) In other cases no further proceedings shall be taken under this Chapter.

[2][**139A.** (*1*) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, Procedure where existence of public right is denied.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 25.

2 S. 139A ins. by s. 26, *ibid.*

question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 137 or section 138, inquire into the matter.

(*2*) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court ; and, if he finds that there is no such evidence, he shall proceed as laid down in section 137 or section 138, as the case may require.

(*3*) A person who has, on being questioned by the Magistrate under sub-section (*1*) failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial, nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138.]

Procedure on order being made absolute.

140. (*1*) When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code. XLV of 1860.

Consequences of disobedience to order.

(*2*) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits. the order shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

(*3*) No suit shall lie in respect of anything done in good faith under this section.

Procedure on failure to appo nt jury or omission to return verdict.

141. If the applicant, by neglect or otherwise, prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

(*Chapter X.—Public Nuisances. Chapter XI.—Temporary Orders in Urgent Cases of Nuisance or Apprehended Danger.*)

Injunction pending inquiry.

142. (*1*) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be, or has been, appointed or not, issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

(*2*) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(*3*) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

Magistrate may prohibit repetition or continuance of public nuisance.

143. A District Magistrate or Sub-Divisional Magistrate, or any other Magistrate empowered by the [1][Provincial Government] or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.

XLV of 1860.

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

144. (*1*) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, Sub-Divisional Magistrate, or of any other Magistrate [2][(not being a Magistrate of the third class)] specially empowered by the [1][Provincial Government] or the Chief Presidency Magistrate or the District Magistrate to act under this section, [2][there is sufficient ground for proceeding under this section and] immediate prevention or speedy remedy is desirable,

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(*2*) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time

1 Subs. by the A. O. for "L. G.".

2 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 27.

(*Chapter XI.—Temporary Orders in Urgent Cases of Nuisance or Apprehended Danger. Chapter XII.—Disputes as to Immoveable Property.*)

of a notice upon the person against whom the order is directed, be passed, *ex parte*.

(*3*) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

(*4*) Any Magistrate may, [1][either on his own motion or on the application of any person aggrieved], rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

[1][(*5*) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and shewing cause against the order : and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.]

[2][(*6*)] No order under this section shall remain in force for more than two months from the making thereof ; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the [3][Provincial Government], by notification in the Official Gazette, otherwise directs.

CHAPTER XII.

Disputes as to Immoveable Property.

Procedure where dispute concerning land, etc., is likely to cause breach of peace.

145. (*1*) Whenever a District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(*2*) For the purposes of this section the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(*3*) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 27.

2 The original sub-section (*5*) was re-numbered (*6*) by s. 27, *ibid.*

3 Subs. by the A. O. for "L. G.".

Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

Inquiry as to possession.

(*4*) The Magistrate shall then, without reference to the merits or the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, [1][receive all such evidence as may be] produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject :

Provided that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date :

Provided also, that if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.

(*5*) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed ; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (*1*) shall be final.

Party in possession to retain possession until legally evicted.

(*6*) If the Magistrate decides that one of the parties was [2][or should under the first proviso to sub-section (*4*) be treated as being] in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction [2][and when he proceeds under the first proviso to sub-section (*4*), may restore to possession the party forcibly and wrongfully dispossessed].

[3][(*7*) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto.]

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 28, for " receive the evidence ".

2 Ins. by s. 28, *ibid.*

3 Subs. for the original sub-section (*7*) by s. 28, *ibid.*

[1][(*8*) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(*9*) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(*10*) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107.]

Power to attach subject of dispute.

146. (*1*) If the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach it until a competent Court has determined the rights of the parties thereto, or the person entitled to possession thereof :

[2][Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.]

(*2*) When the Magistrate attaches the subject of dispute, he may, if he thinks fit [2][and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court] appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure.[3] XIV of 1882.

[2][Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.]

Disputes concerning rights of use of immovable property, etc.

[4][**147.** (*1*) Whenever any District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is satisfied, from a police-report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145, sub-section (*2*) (whether such rights be claimed as an easement or otherwise), within the local limits of his

---

[1] Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 28.

[2] Ins. by s. 29, *ibid.*

[3] *See* now the Code of Civil Procedure, 1908 (5 of 1908).

[4] Subs. by Act 18 of 1923, s. 30, for original s. 147.

jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.

(*2*) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right :

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(*3*) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(*4*) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction.]

Local inquiry.

148. (*1*) Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate or Sub-Divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(*2*) The report of the person so deputed may be read as evidence in the case.

Order as to costs.

(*3*) When any costs have been incurred by any party to a proceeding under this Chapter [1]* * * * the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. [2][Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable.]

---

1 The words "for witnesses, or pleaders' fees, or both" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 31.

2 Subs. by s. 31, *ibid*, for "All costs so directed to be paid may be recovered as if they were fines".

(Chapter XIII.—Preventive Action of the Police. Chapter XIV.—Information to the police and their powers to investigate.)

CHAPTER XIII.

PREVENTIVE ACTION OF THE POLICE.

Police to prevent cognizable offences.

149. Every police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Information of design to commit such offences.

150. Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Arrest to prevent such offences.

151. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

152. A police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

Inspection of weights and measures.

153. (*1*) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(*2*) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

Information in cognizable cases.

154. Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant ; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving

it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the [1][Provincial Government] may prescribe in this behalf.

Information in non-cognizable cases.

[2]**155.** (*1*) When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

Investigation into non-cognizable cases.

(*2*) No police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

(*3*) Any police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

Investigation into cognizable cases.

156. (*1*) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

(*2*) No proceeding of a police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(*3*) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

Procedure where cognizable offence suspected.

157. (*1*) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police-report, and shall proceed in person, or shall depute one of his subordinate officers [3][not being below such rank as the [1][Provincial Government] may, by general or special order, prescribe in this behalf] to proceed, to the spot, to investigate the facts and circumstances of the case, [4][and, if necessary, to take measures] for the discovery and arrest of the offender :

---

1 Subs. by the A. O. for "L. G.".

2 This section, so far as it applies to the police in the town of Bombay, rep. by the City of Bombay Police Act, 1902 (Bom. 4 of 1902), s. 2 (*1*) and Sch. A.

3 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 32.

4 Subs. by s. 32, *ibid*, for "and to take such measures as may be necessary".

Provided as follows :—

Where local investigation dispensed with.

(*a*) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot ;

Where police-officer in charge sees no sufficient ground for investigation.

(*b*) if it appears to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(*2*) In each of the cases mentioned in clauses (*a*) and (*b*) of the proviso to sub-section (*1*), the officer in charge of the police-station shall state in his said report his reasons for not fully complying with the requirements of that sub-section, [1][and, in the case mentioned in clause (*b*), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the [2][Provincial Government], the fact that he will not investigate the case or cause it to be investigated.]

Reports under section 157 how submitted.

158. (*1*) Every report sent to a Magistrate under section 157 shall, if the [2][Provincial Government] so directs, be submitted through such superior officer of police as the [2][Provincial Government], by general or special order, appoints in that behalf.

(*2*) Such superior officer may give such instructions to the officer in charge of the police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

Power to hold investigation of preliminary inquiry.

159. Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Police-officer's power to require attendance of witnesses.

160. Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case ; and such person shall attend as so required.

Examination of witnesses by police.

161. (*1*) Any police-officer making an investigation under this Chapter [3][or any police-officer not below such rank as the [2][Provincial Government] may, by general or special order, prescribe in this behalf,

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 32.

2 Subs. by the A. O. for "L. G.".

3 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 33.

(3) The Police Officer may reduce into writing any statement made to him in the course of an examination under this section, and if he does so he shall make a separate record of the statement, of each such person whose statement he records).

162. [1][(*1*) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it ; nor shall any such statement or any record thereof, whether in a police-diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made.

Statements to police not to be signed ; use of such statements in evidence.

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination :

I of 1872.

Provided, further that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.]

(*2*) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (*1*), of the Indian Evidence Act, 1872, or to effect the provisions of section 27 of that Act.

I of 1872.

163. (*1*) No police-officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872, section 24.

No inducement to be offered.

I of 1872.

(*2*) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 34, for original sub-section (*1*).

(Chapter XIV.—Information to the Police and their Powers to investigate.)

Power to record statements and confessions.

164. (*1*) [1][Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the [2][Provincial Government] may, if he is not a police-officer] record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.

(*2*) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(*3*) [3][A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate] shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily ; and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect :—

' [4][I have explained to (name) that he is not bound to make a confession and that. if he does so, any confession he may make may be used as evidence against him and I believe] that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(*Signed*) A. B.,

Magistrate."

Explanation.—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

Search by police-officer.

165. [5][(*1*) Whenever an officer in charge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police-station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 35, for "Every Magistrate not being a police-officer may".

2 Subs. by the A. O. for "L. G.".

3 Subs. by Act 18 of 1923, s. 35, for "No Magistrate".

4 Subs. by s. 35, *ibid*, for "I believe".

5 Subs. by s. 36, *ibid*, for original sub-sections (*1*) and (*2*).

obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(*2*) A police-officer proceeding under sub-section (*1*) shall, if practicable, conduct the search in person.]

(*3*) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may [1][after recording in writing his reasons for so doing] require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing [2][specifying the place to be searched and, so far as possible, the thing for which search is to be made] ; and such subordinate officer may thereupon search for such thing in such place.

(*4*) The provisions of this Code as to search-warrants [1][and the general provisions as to searches contained in section 102 and section 103] shall, so far as may be, apply to a search made under this section.

[1][(*5*) Copies of any record made under sub-section (*1*) or sub-section (*3*) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

When officer in charge of police-station may require another to issue search warrant.

166. (*1*) An officer in charge of a police-station [3][or a police-officer not being below the rank of sub-inspector making an investigation] may require an officer in charge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(*2*) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

[3][(*3*) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (*1*) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police-officer making an investigation under this Chapter to search, or cause to be searched, any place in the

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 36.

2 Subs. by s. 36, *ibid*, for "specifying the document or thing for which search is to be made and the place to be searched".

3 Sub-sections (*3*) to (*5*) were ins. by s. 37, *ibid*.

limits of another police-station, in accordance with the provisions of section 165, as if such place were within the limits of his own station.

(*4*) Any officer conducting a search under sub-section (*3*) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (*1*) and (*3*).

(*5*) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (*4*) :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

Procedure when investigation cannot be completed in twenty-four hours.

167. (*1*) Whenever [1][any person is arrested and detained in custody, and it appears that the] investigation [2] [4] cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station [3][or the police-officer making the investigation if he is not below the rank of sub-inspector] shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused [1]* * to such Magistrate.

(*2*) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction :

[3][Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the [5][Provincial Government] shall authorise detention in the custody of the police.]

(*3*) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

(*4*) If such order is given by a Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 38, for "it appears that any".
2 The words "under this Chapter" rep. by s. 38, *ibid.*
3 Ins. by s. 38, *ibid.*
4 The words and brackets "(if any)", rep. by s. 38, *ibid.*
5 Subs. by the A. O. for "L. G.".

order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

Report of investigation by subordinate police-officer.

168. When any subordinate police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police-station.

Release of accused when evidence deficient.

169. If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station [1][or to the police-officer making the investigation] that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police-report and to try the accused or commit him for trial.

Case to be sent to Magistrate when evidence is sufficient.

170. (*1*) If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police-report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(*2*) When the officer in charge of a police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(*3*) If the Court of the District Magistrate or Sub-divisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

[2]* * * * * * *

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 39.

2 Sub-section (*4*) rep. by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 2.

(*Chapter XIV.—Information to the Police and their Powers to investigate.*)

(*5*) The officer in whose presence the bond is executed shall deliver a copy therof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

Complainants and witnesses not to be required to accompany police-officer.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer,

Complainants and witnesses not to be subjected to restraint.

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond :

Recusant complainant or witness may be forwarded in custody.

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Diary of proceedings in investigation.

172. (*1*) Every police-officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(*2*) Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court ; but, if they are used by the police-officer who made them, to refresh his memory, or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the Indian Evidence Act, 1872, section 161 or section 145, as the case may be, shall apply. I of 1872.

Report of police-officer.

173. [1][(1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall—

(*a*) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the [2][Provincial Government], setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circum-

---

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 40, for the original sub-section (*1*).

[2] Subs. by the A. O. for "L. G.".

stances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond, and, if so, whether with or without sureties, and

(*b*) communicate, in such manner as may be prescribed by the [1][Provincial Government], the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given.]

(*2*) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the [1][Provincial Government] by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.

(*3*) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

[2][(*4*) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial :

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

Police to inquire and report on suicide, etc.

[3]**174.** (*1*) The officer in charge of a police-station or some other police-officer specially empowered by the [1][Provincial Government] in that behalf, on receiving information that a person—

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the [1][Provincial Government], or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause

---

1 Subs. by the A. O. for "L. G.".

2 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 40.

3 For form in which ss. 174 to 176 should be read in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court at Madras, *see* s. 4 (*2*) of the Coroners (Madras) Act, 1889 (5 of 1889).

of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(*2*) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

(*3*) When there is any doubt regarding the cause of death, or when for any other reason the police-officer considers it expedient so to do, he shall, subject to such rules as the [1][Provincial Government] may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the [1][Provincial Government], if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(*4*) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

(*5*) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, [2][Sub-divisional Magistrate or Magistrate of the first class], and any Magistrate especially empowered in this behalf by the [1][Provincial Government] or the District Magistrate.

Power to summon persons.

175. (*1*) A police-officer proceeding under section 174 may, by order in writing summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

(*2*) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Inquiry by Magistrate into cause of death.

176. (*1*) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (*a*), (*b*) and (*c*) of sub-section (*1*), any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police-officer, and if he does so, he shall have all the powers in conducting it

1 Subs. by the A. O. for "L. G.".
2 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 41, for "or Sub-divisional Magistrate".

(*Chapter XIV.—Information to the Police and their Powers to Investigate. Chapter XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials.*)

which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

(2) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may, cause the body to be disinterred and examined.[1] Power to disinter corpses.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed. Ordinary place of inquiry and trial.

178. Notwithstanding anything contained in section 177, the [2][Provincial Government] may direct that any cases or class of cases committed for trial in any district may be tried in any sessions division : Power to order cases to be tried in different sessions divisions.

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act, 1861, [3][or section 107 of the Government of India Act, 1915], [4][or section 224 of the Government of India Act, 1935], or under this Code, section 526.

24 & 25 Vict., c. 104.
5 & 6 Geo. 5, c. 61.
26 Geo. 5 Ch. 2.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued. Accused triable in district where act is done or where consequence ensues.

Illustrations.

(*a*) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried by X or Z.

---

1 A similar power is entrusted to the Coroners of Calcutta and Bombay. *See* the Coroners Act, 1871 (4 of 1871), s. 11.

2 Subs. by the A. O. for "L. G.".

3 Ins. by the Amending Act, 1916 (13 of 1916), s. 2 and Sch.

4 Ins. by the A. O.

(Chapter XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials.)

(*b*) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y, or Court Z, to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(*c*) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

(*d*) A is wounded in the Native State of Baroda, and dies of his wounds in Poona. The offence of causing A's death may be inquired into and tried in Poona.

Place of trial where act is offence by reason of relation to other offence.

180. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustrations.

(*a*) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(*b*) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(*c*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

Being a thug or belonging to a gang of dacoits, escape from custody, etc.

181. (*1*) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

Criminal misappropriation and criminal breach of trust.

(*2*) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed.

Theft.

[1][(*3*) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 42, for the original sub-section (*3*).

or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.]

(*4*) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained.

Kidnapping and abduction.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

Place of inquiry or trial where scene of offence is uncertain or not in one district only or where offence is continuing or consists of several acts.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Offence committed on a journey.

184. All offences against the provisions of any law for the time being in force relating to Railways,[1] Telegraphs,[2] the Post-office[3] or Arms and Ammunition[4] may be inquired into or tried in a presidency-town, whether the offence is stated to have been committed within such town or not :

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

Offences against Railway, Telegraph, Post Office and Arms Acts.

[5][**185.** (*1*) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court.

(*2*) Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence, the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced may direct the trial of such offender to be held in any Court subordinate to it, and if it so decides all other proceedings against such person in respect of such offence shall be discontinued. If

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

---

1 *See* the Indian Railways Act, 1890 (9 of 1890).
2 *See* the Indian Telegraphs Act, 1885 (13 of 1885).
3 *See* the Indian Post Office Act, 1898 (6 of 1898).
4 *See* the Indian Arms Act, 1878 (11 of 1878).
5 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 43, for original s. 185.

such High Court, upon the matter having been brought to its notice, does not so decide, any other High Court, within the local limits of whose appellate criminal jurisdiction such proceedings are pending may give a like direction, and upon its so doing all other such proceedings shall be discontinued.]

Power to issue summons or warrant for offence committed beyond local jurisdiction.

186. (*1*) When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the [1][Provincial Government], a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without ~~British India~~) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in ~~British India~~, such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

Magistrate's procedure on arrest.

(*2*) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

Procedure where warrant issued by subordinate Magistrate.

187. (*1*) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

(*2*) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

Liability of British subjects for offences committed out of ~~British India~~.

188. When a ~~Native Indian subject of Her Majesty~~ commits an offence at any place without and beyond the limits of ~~British India~~, or

when any British subject commits an offence in the ~~territories of any Native Prince or Chief in India~~, or an acceding state or Tribal area.

[1] Subs. by the A. O. for "L. G.".

or

when any person commits an offence on any ship or aircraft registered in the Provinces wherever it may be,)

he may be dealt with in respect of such offence as if it had been committed at any place within ~~British India~~ at which he may be found :

Provided that [1][notwithstanding anything in any of the preceding sections of this Chapter] no charge as to any such offence shall be inquired into ~~the British India~~ unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into ~~British India~~ ; and, where there is no Political Agent, the sanction of the [2][Provincial Government] shall be required :

Political Agents to certify fitness of inquiry into charge.

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in ~~British India~~ shall be a bar to further proceedings against him under [3][the Indian Extradition Act, 1903], in respect of the same offence in any territory beyond the limits of ~~British India~~.

XV of 1903.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the [2][Provincial Government] may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

Power to direct copies of depositions and exhibits to be received in evidence.

B.—Conditions requisite for Initiation of Proceedings.

190. (*1*) Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

Cognizance of offences by Magistrates.

(*a*) upon receiving a complaint of facts which constitute such offence ;

[4][(*b*) upon a report in writing of such facts made by any police-officer ;]

(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 44.

2 Subs. by the A. O. for "L. G.".

3 Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "the Foreign Jurisdiction and Extradition Act, 1879".

4 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 45, for original clause (*b*).

(*Chapter XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials.*)

(*2*) The [1][Provincial Government], or the District Magistrate subject to the general or special orders of the [1][Provincial Government], may empower any Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.

(*3*) The [1][Provincial Government] may empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.

Transfer or commitment on application of accused.

191. When a Magistrate takes cognizance of an offence under sub-section (*1*), clause (*c*), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate.

Transfer of cases by Magistrates.

192. (*1*) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him.

(*2*) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial ; and such Magistrate may dispose of the case accordingly.

Cognizance of offences by Courts of Session.

193. (*1*) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session[2] shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

(*2*) ~~Addl.~~ Sessions Judges and ~~Asstt.~~ Assistant Sessions Judges shall try such cases only as the [1][Provincial Government] by general or special order may direct them to try, or [3]* * * as the Sessions Judge of the division, by general or special order, may make over to them for trial.

Cognizance of offences by High Court.

194. (*1*) The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

---

1 Subs. by the A. O. for "L. G.".

2 As to procedure of Courts of Session in British Baluchistan, *see* British Baluchistan Criminal Justice Regulation. 1896 (8 of 1896). This procedure, however, does not affect the Code in its application to European British subjects, *see* the Regulation referred to.

3 The words "in the case of Assistant Sessions Judges" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 46.

(Chapter XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials.)

24 & 25 Vict. c. 104. 5 & 6 Geo. 5, c. 61. 26 Geo. 5. c. 2.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the Indian High Courts Act, 1861, [1][or the Government of India Act, 1915] [2][or the Government of India Act, 1935], or any other provision of this Code.

Informations by Advocate General.

(2) (a) Notwithstanding anything in this Code contained, the Advocate General may, with the previous sanction of [3] * * * the [4][Provincial Government], exhibit to the High Court, against persons subject to the jurisdiction of the High Court, informations for all purposes for which Her Majesty's Attorney General may exhibit informations on behalf of the Crown in the High Court of Justice in England.

(b) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney General so far as the circumstances of the case and the practice and procedure of the said High Court will admit.

(c) All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information [5][shall form part of the revenues of the Province].

(d) The High Court may make rules for carrying into effect the provisions of this section.

195. [6][(1) No Court shall take cognizance—

Prosecution for contempt of lawful authority of public servants.

(a) of any offence punishable under sections 172 to 188 of the Indian Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate ;

XLV of 1860.

Prosecution for certain offences against public justice.

(b) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate ; or

Prosecution for certain offences relating to documents given in evidence.

(c) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.]

---

1 Ins. by the Amending Act, 1916 (13 of 1916), s. 2 and Sch.

2 Ins. by the A. O.

3 The words "the G. G. in C. or" rep. by the A. O.

4 Subs. by the A. O. for "L. G".

5 Subs. by the A. O. for "shall belong to the G. of I.".

6 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 47, for the original sub-section (1).

(*Chapter XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials.*)

(*2*) In clauses (*b*) and (*c*) of sub-section (*1*), the term "Court" [1][includes] a Civil, Revenue or Criminal Court, but does not include a Registrar or Sub-Registrar under the Indian Registration Act, 1877.[2] III of 1877

[3][(*3*) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate.

Provided that—

(*a*) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate ; and

(*b*) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.]

[4][(*4*)] The provisions of sub-section (*1*), with reference to the offences named therein, apply also to [5][criminal conspiracies to commit such offences and to] the abetment of such offences, and attempts to commit them.

[6][(*5*) Where a complaint has been made under sub-section (*1*), clause (*a*), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.]

Prosecution for offences against the state.

196. No Court shall take cognizance of any offence punishable under Chapter VI [7][or IXA] of the Indian Penal Code (except section 127), XLV of 1860 or punishable under section 108A, or section 153A, or section 294A, [8][or section 295A] or section 505 of the same Code, unless upon complaint made by order of, or under authority from, [9][the Provincial Government

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 47, for "means".

2 *See* now the Indian Registration Act, 1908 (16 of 1908).

3 Subs. by Act 18 of 1923, s. 47, for original sub-section (*7*), re-numbered as sub-section (*3*).

4 The original sub-section (*3*) was re-numbered (*4*) by s. 47, *ibid.*

5 Ins. by the Criminal Law Amendment Act, 1913 (8 of 1913), s. 4.

6 The original sub-sections (*4*), (*5*) and (*6*) were rep., and the new sub-section (*5*) was ins. by Act 18 of 1923, s. 47.

7 Ins. by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 3.

8 Ins. by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 3.

9 Subs. by the A. O. for "the G. G. in C., the L. G., or some officer empowered by the G. G. in C.".

(Chapter XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials.)

or some officer empowered by the Provincial Government] in this behalf[1].

[2][**196A.** No Court shall take cognizance of the offence of criminal conspiracy punishable under section 120B of the Indian Penal Code, XLV of 1860.

Prosecution for certain classes of criminal conspiracy.

(*1*) in a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means, or an offence to which the provisions of section 196 apply, unless upon complaint made by order or under authority from [3][the Provincial Government or some officer empowered by the Provincial Government] in this behalf, or

(*2*) in a case where the object of the conspiracy is to commit any non-cognizable offence, or a cognizable offence not punishable with death, transportation or rigorous imprisonment for a term of two years or upwards, unless the [4][Provincial Government], or a Chief Presidency Magistrate or District Magistrate empowered in this behalf by the [4][Provincial Government], has, by order in writing, consented to the initiation of the proceedings :

Provided that where the criminal conspiracy is one to which the provisions of sub-section [5][(*4*)] of section 195 apply no such consent shall be necessary.]

[6][**196B.** In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate or Chief Presidency Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (*3*).]

Preliminary inquiry in certain cases.

197. [7][(*1*) When any person who is a Judge within the meaning of section 19 of the Indian Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of a [4][Provincial Government] or ~~some higher authority~~, is accused of any offence alleged to have been committed by him while acting XLV of 1860.

Prosecution of Judges and public servants.

1 In the Punjab and the C. P., this section has been amended by the Punjab Criminal Procedure (Election Offences Amendment) Act, 1936 (Punjab 1 of 1936) and the Code of Criminal Procedure (C. P. Amendment) Act, 1936 (C. P. 19 of 1936), respectively.

2 S. 196A was ins. by the Criminal Law Amendment Act, 1913 (8 of 1913), s. 5.

3 Subs. by the A. O. for "the G. G. in C., the L. G., or some officer empowered by the G. G. in C.".

4 Subs. by the A. O. for "L. G.".

5 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 48, for "(*3*)".

6 S. 196B was ins. by s. 49, *ibid.*

7 Subs. by s. 50, *ibid*, for the original sub-section (*1*).

" Provided further that where the husband aggrieved by an offence under 494 of the said Code is serving in any of His Majesty's armed forces under conditions which are certified by his Commanding Officer as precl-
-uding him form obtaining leave of absence to enable him to make a complaint in person,some other person author-
-ised by the husband in accordance with the provisions of sub-section(1) of section 199B may, with the leave of the court,make a complaint on his behalf")

(" Provided further that where such husband is serving in any of his Majesty's armed forces under conditions which are certified by his Commanding Officer as preclu--ding him from obtaining leave of absence to enable him to make a complaint in person , and where for any reason no complaint has been made by a person having care of the woman as aforesaid,some other person authorised by the husband in accordance with the provisions of sub--section(1) of section 199b may,with the leave of the court,make a complaint on this behalf")

(" 199B. Form of authorisation under second proviso to section 198 or 199-
(1) The authorisation of a husband given to another person to make a complaint on his behalf under the second proviso to section 198 or the second proviso to section 199 shall be in writing,shall be signed or otherwise attested by the husband,shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded,shall be countersigned by the officer refe--rred to in the said provisos, and shall be accompanied by a certificate signed by that officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.

(2) Any document purporting to be such an authorisation and complying with the provisions of sub section (1) and any document purporting to be a certificate required by that sub.section shall, unless the contrary is proved, be presumed to be genuine and shall be received in evidence.)

(Chapter XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials.)

or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the [1][previous sanction—

(*a*) in the case of a person employed in connection with the affairs of the ~~Federation~~, of the Governor General ~~exercising his individual judgment~~ ; and

(*b*) in the case of a person employed in connection with the affairs of a Province, of the Governor of that Province ~~exercising his individual judgment.~~]].

Power of Governor General or Governor as to prosecution.

(*2*) [2][The Governor General or Governor, as the case may be, ~~exercising his individual judgment~~] may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge, [3][Magistrate] or public servant is to be conducted, and may specify the Court before which the trial is to be held.

[4][(*3*) ~~In relation to the period elapsing between the commencement~~ of Part III of the Government of India Act, 1935, and the establishment of the Federation, the references in this section to the Federation and to the Governor General ~~exercising~~ his individual judgment shall be con~~strued as references to the Governor General in Council.~~] 26 Geo. 5 c. 2.

Prosecution for breach of contract, defamation and offences against marriage.

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence : XLV of

[5][Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf.]

Prosecution for adultery or enticing a married woman.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, [6][made with the leave of the Court]~~by~~ some person who had care of such woman on his behalf at the time when such offence was committed : XLV of 18

[6][Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to

---

1 Subs. by the A. O. for "previous sanction of the L. G.".

2 Subs. by the A. O. for "Such Govt.".

3 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 50.

4 Ins. by the A. O.

5 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 51.

6 Ins. by s. 52, *ibid.*

make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf.]

[1][**199A.** When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof.]

Objection by lawful guardian to complaint by person other than person aggrieved.

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

200. [2]* * * A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate :

Examination of complainant.

Provided as follows :—

(*a*) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192 ;

[3][(*aa*) when the complaint is made in writing nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties ;]

(*b*) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and [4][where the complaint is made in writing] need not be reduced to writing ; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing ;

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 53.

2 The words and figures "Subject to the provisions of section 476" rep. by s. 54, *ibid.*

3 Ins. by s. 54, *ibid.*

4 Ins. by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 3.

(*c*) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

Procedure by Magistrate not competent to take cognizance of the case.

201. (*1*) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(*2*) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

Postponement for issue of process.

202. [1][(*1*) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police-officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint :

[2][Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200.]]

[3][(*2*) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.]

[4][(*2A*) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath.]

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

Dismissal of complaint.

203. The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, [5][after considering the statement on oath (if any) of the complainant and the result of [6][the

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 55, for original sub-section (*1*).

2 Subs. by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 4, for original proviso.

3 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 55, for original sub-section (*2*).

4 Ins. by s. 55, *ibid.*

5 Subs. by s. 55, *ibid*, for "after examining the complainant and considering the result of the investigation (if any) made under s. 202".

6 Subs. by Act 2 of 1926, s. 5, for "any investigation".

(Chapter XVI.—Of Complaints to Magistrates. Chapter XVII.—Of the Commencement of Proceedings before Magistrates. Chapter XVIII.—Of Inquiry into Cases triable by the Court of Session or High Court.)

investigation] or inquiry [1][(if any)] under section 202] ; there is in his judgment no sufficient ground for proceeding. In such cases he shall briefly record his reasons for so doing.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

Issue of process.

204. (*1*) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

(*2*) Nothing in this section shall be deemed to affect the provisions of section 90.

(*3*) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

Magistrate may dispense with personal attendance of accused.

205. (*1*) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

(*2*) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

Power to commit for trial.

206. (*1*) [2]* * * Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, or any Magistrate [3][(not being a Magistrate of the third class)] empowered in this

[1] Ins. by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 5.

[2] The words and figures "Subject to the provisions of section 443", rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 9.

[3] Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 57.

behalf by the [1][Provincial Government], may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

(*2*) But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

Procedure in inquiries preparatory to commitment.

207. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court.

Taking of evidence produced.

208. (*1*) The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

(*2*) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

Process for production of further evidence.

(*3*) If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or thing the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so

(*4*) Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

When accused person to be discharged.

209. (*1*) When the evidence referred to in section 208, sub-sections (*1*) and (*3*), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(*2*). Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

When charge is to be framed.

210. (*1*) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

---

1 Subs. by the A. O. for "L. G.".

(Chapter XVIII.—Of Inquiry into Cases triable by the Court of Session or High Court.)

(*2*) As soon as [1][such charge] has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

Charge to be explained, and copy furnished, to accused.

211. (*1*) The accused shall be required at once to give in orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

List of witnesses for defence on trial.

(*2*) The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time ; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Further list.

212. The Magistrate may, in his discretion, summon and examine any witness named in any list given in to him under section 211.

Power of Magistrate to examine such witnesses.

213. (*1*) When the accused, on being required to give in a list under section 211, has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

Order of commitment.

(*2*) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused.

214. [*Person charged outside presidency-towns jointly with European British subject.*] *Rep. by s. 10 of the Criminal Law Amendment Act, 1923 (XII of 1923).*

215. A commitment once made under section 213 [2]* * * by a competent Magistrate [3]* * * or by a Civil or Revenue Court under section 478, can be quashed by the High Court only, and only on a point of law.

Quashing commitments under section 213.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial. the Magistrate shall summon

Summons to witnesses for defence

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 53, for " the charge ".

2 The words and figures " or section 214 " rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 11.

3 The words and figures " or by a Court of Session under section 477 " rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 59.

when accused is committed.

such of the witnesses included in the list, as have not appeared before himself, to appear before the Court to which the accused has been committed :

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly :

Refusal to summon unnecessary witness unless deposit made.

Provided, also, that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

Bond of complainants and witnesses.

217. (*1*) Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute bond.

(*2*) If any complainant or witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

Commitment when to be notified.

218. (*1*) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the [1][Provincial Government] in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge ;

Charge, etc., to be forwarded to High Court or Court of Session.

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

---

1 Subs. by the A. O. for "L. G.".

(*2*) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record. English translation to be forwarded to High Court.

219. (*1*) [1][The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206] may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence. Power to summon supplementary witnesses.

(*2*) Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall [2][be given to the accused free of cost].

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant, to custody. Custody of accused pending trial.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

221. (*1*) Every charge under this Code shall state the offence with which the accused is charged. Charge to state offence.

(*2*) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only. Specific name of offence sufficient description.

(*3*) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged. How stated where offence has no specific name.

(*4*) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(*5*) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case. What implied in charge.

(*6*) In the presidency-towns the charge shall be written in English ; elsewhere it shall be written either in English or in the language of the Court. Language of charge.

---

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 60, for "The Magistrate".

[2] Subs. by s. 60, *ibid*, for "if the accused so require, be given to him free of cost".

Previous conviction when to be set out.

(*7*) If the accused [1][having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence,] the fact, date and place of the previous conviction shall be stated in the charge. If such statement [2][has been omitted,] the Court may add it at any time before sentence is passed.

Illustrations.

(*a*) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code ; that it did not fall within any of the general exceptions of the same Code ; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception I, one or other of the three provisos to that exception apply to it. XLV of 1860.

(*b*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it. XLV of 1860.

(*c*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code ; but the sections under which the offence is punishable must, in each instance, be referred to in the charge. XLV of 1860.

(*d*) A is charged, under section 184 of the Indian Penal Code with intentionally obstructing a sale of property offered for sale by the lawful authority of a public-servant. The charge should be in those words. XLV of 1860.

Particulars as to time, place and person.

222. (*1*) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(*2*) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234 :

Provided that the time included between the first and last of such dates shall not exceed one year.

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 61, for " has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award,".

2 Subs. by s. 61, *ibid*, for " is omitted ".

(*Chapter XIX.—Of the Charge.*)

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

When manner of committing offence must be stated.

Illustrations.

(*a*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d*) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Words in charge taken in sense of law under which offence is punishable.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Effect of errors.

Illustrations.

XLV of 1860.

(*a*) A is charged under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in the case, a material error.

(*d*) A is charged with the murder of Khoda Baksh on the 21st January 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e*) A was charged with murdering Haidar Baksh on the 20th January 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Procedure on commitment without charge or with imperfect charge.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the Clerk of the Crown, may frame a charge or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

Illustrations.

1. A is charged with the murder of C. A charge of abetting the murder of C may be added or substituted.

2. A is charged with forging a valuable security under section 467 of the Indian Penal Code. A charge of fabricating false evidence under section 193 may be added. XLV of 1860.

3. A is charged with receiving stolen property knowing it to be stolen. During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Indian Penal Code cannot be added. XLV of 1860.

Court may alter charge.

227. (*1*) Any Court may alter or add to any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

(*2*) Every such alteration or addition shall be read and explained to the accused.

When trial may proceed immediately after alteration.

228. If the charge framed or alteration or addition made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

When new trial may be directed, or trial suspended.

229. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

230. If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

231. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to re-call or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, and also to call any further witness whom the Court may think to be material.

Recall of witnesses when charge altered.

232. (*1*) If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

Effect of material error.

(*2*) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

XLV of 1860. A is convicted of an offence, under section 196 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge ; but, if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

Joinder of charges.

233. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

Separate charges for distinct offences.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

234. (*1*) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, [1][whether in respect of the same person or not], he may be charged with, and tried at one trial for, any number of them not exceeding three.

Three offences of same kind within year may be charged together.

[1] Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 62.

(*2*) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code or of any special or local law : XLV of 1860.

[1][Provided that, for the purpose of this section, an offence punishable under section 379 of the Indian Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the Indian Penal Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.] XLV of 1860. XLV of 1860.

Trial for more than one offence.

235. (*1*) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

Offence falling within two definitions.

(*2*) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

Acts constituting one offence, but constituting when combined a different offence.

(*3*) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(*4*) Nothing contained in this section shall affect the Indian Penal Code, section 71. XLV of 1860.

Illustrations.

to sub-section (*1*)—

(*a*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 225 and 333 of the Indian Penal Code.

(*b*) A commits house-breaking by day with intent to commit adultery, and commits in the house so entered adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.

(*c*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code.

(*d*) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

---

[1] Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 62.

(*e*) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding ; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charges. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code.

(*f*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code.

(*g*) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of Indian Penal Code.

(*h*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in Illustrations (*a*) to (*h*) respectively may be tried at the same time.

to sub-section (2)—

(*i*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code.

(*j*) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

(*k*) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code.

(*l*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code.

to sub-section (3)—

(*m*) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code.

Where it is doubtful what offence has been committed.

236. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once ; or he may be charged in the alternative with having committed some one of the said offences.

Illustrations.

(*a*) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiv-

ing stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

(*b*) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

When a person is charged with one offence, he can be convicted of another.

237. (*1*) If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

[1]* * * * * *

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be) though he was not charged with such offence.

When offence proved included in offence charged.

238. (*1*) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(*2*) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

[2][(*2A*) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.]

(*3*) Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

Illustrations.

(*a*) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears, that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b*) A is charged, under section 325 of the Indian Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

---

[1] Sub-section (*2*) rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 63.

[2] Ins. by s. 64, *ibid.*

[1][**239.** The following persons may be charged and tried together, namely :— **What persons may be charged jointly.**

(*a*) persons accused of the same offence committed in the course of the same transaction ;

(*b*) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence ;

(*c*) persons accused of more than one offence of the same kind, within the meaning of section 234 committed by them jointly within the period of twelve months ;

(*d*) persons accused of different offences committed in the course of the same transaction ;

(*e*) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence ;

(*f*) persons accused of offences under sections 411 and 414 of the Indian Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence ; and — XLV of 1860.

(*g*) persons accused of any offence under Chapter XII of the Indian Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence ; — XLV of 1860.

and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges.]

240. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn. **Withdrawal of remaining charges on conviction on one of several charges.**

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 65, for original s. 239.

CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

Procedure in summons-cases.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases.

Substance of accusation to be stated.

242. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted ; but it shall not be necessary to frame a formal charge.

Conviction on admission of truth of accusation.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him ; and, if he shows no sufficient cause why he should not be convicted, the Magistrate [1][may convict] him accordingly.

Procedure when no such admission is made.

244. (*1*) [2][If the Magistrate does not convict the accused under the preceding section or] if the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence :

[2][Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.]

(*2*) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue [3][a summons to any witness directing him to attend or to produce] any document or other thing.

(*3*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

Acquittal.

245. (*1*) If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

Sentence.

[4][(*2*) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.]

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 66, for "shall convict".

2 Ins. by s. 67, *ibid.*

3 Subs. by s. 67, *ibid*, for "process to compel the attendance of any witness or the production of".

4 Subs. by s. 68, *ibid*, for original sub-section (*2*).

(*Chapter XX.—Of the Trial of Summons-cases by Magistrates.*)

246. A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this Chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons.

Finding not limited by complaint or summons.

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day :

Non-appearance of complainant.

Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance, and proceed with the case.

248. If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

Withdrawal of complaint.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or with the previous sanction of the District Magistrate, any other Magistrate, may for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

Power to stop proceedings when no complainant.

Frivolous Accusations in Summons and Warrant Cases.

250. [1][(*1*) If in any case instituted upon complaint or upon information given to a police-officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present direct the issue of a summons to him to appear and show cause as aforesaid.

False, frivolous or vexatious accusations.

(*2*) The Magistrate shall record and consider any cause which such complainant or information may show and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be

1 Sub-sections (*1*) to (*2C*) were subs. for the original sub-sections (*1*) and (*2*) by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 69.

recorded, direct that compensation to such amount not exceeding one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(*2A*) The Magistrate may, by the order directing payment of the compensation under sub-section (*2*), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.

(*2B*) When any person is imprisoned under sub-section (*2A*), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply. XLV of 1860.

(*2C*) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him :

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.]

(*3*) A complainant or informant who has been ordered under [1][sub-section (*2*)] by a Magistrate of the second or third class to pay compensation [2][or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees] may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(*4*) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (*3*), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided [3][and, where such order is made in a case which is not so subject to apeal, the compensation shall not be paid before the expiration of one month from the date of the order].

[4]* * * * * *

CHAPTER XXI.

Of the Trial of Warrant-cases by Magistrates.

Procedure in warrant-cases.

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 69, for "sub-section (*1*)".
2 Subs. by s. 69, *ibid*, for "to an accused person".
3 Ins. by s. 69, *ibid*.
4 Sub-section (*5*) rep. by s. 69, *ibid*.

(Chapter XXI.—Of the Trial of Warrant-cases by Magistrates.)

252. (*1*) When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution : Evidence for prosecution.

[1][Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.]

(*2*) The Magistrate shall ascertain, from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

253. (*1*) If, upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him. Discharge of accused.

(*2*) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

254. If, when such evidence and examination have been taken and made, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion could be adequately punished by him, he shall frame in writing a charge against the accused. Charge to be framed when offence appears proved.

255. (*1*) The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make. Plea.

(*2*) If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

[2][**255A.** In a case where a previous conviction is charged under the provisions of section 221, sub-section (*7*), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under section 255, sub-section (*2*), or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon.] Procedure in case of previous convictions.

256. (*1*) If the accused refuses to plead, or does not plead, or claims to be tried, he shall be required to state, [3][at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded Defence.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 70.
2 Ins. by s. 71, *ibid.*
3 Ins. by s. 72, *ibid.*

in writing so thinks fit, forthwith], whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken. If he says he does so wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination (if any), they shall be discharged. The evidence of any remaining witnesses for the prosecution shall next be taken, and, after cross-examination and re-examination (if any), they also shall be discharged. The accused shall then be called upon to enter upon his defence and produce his evidence.

(*2*) If the accused puts in any written statement, the Magistrate shall file it with the record.

Process for compelling production of evidence at instance of accused.

257. (*1*) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing :

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(*2*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

Acquittal.

258. (*1*) If in any case under this Chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

Conviction.

[1][(*2*) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.]

Absence of complainant.

259. When the proceedings have been instituted upon complaint, and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded, [2][or is not a cognizable offence,] the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 73, for original sub-sec. (*2*).

2 Ins. by s. 74, *ibid.*

CHAPTER XXII.

OF SUMMARY TRIALS.

Power to try summarily.

260. (*1*) Notwithstanding anything contained in this Code,—

(*a*) the District Magistrate,

(*b*) any Magistrate of the first class specially empowered in this behalf by the [1][Provincial Government], and

(*c*) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the [1][Provincial Government],

may, if he or they think fit, try in a summary way all or any of the following offences :—

(*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months ;

XLV of 1860.

(*b*) offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code ;

(*c*) hurt, under section 323 of the same Code ;

(*d*) theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees ;

(*e*) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed fifty rupees ;

(*f*) receiving or retaining stolen property under section 411 of the same Code, where the value of such property does not exceed fifty rupees ;

(*g*) assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed fifty rupees ;

(*h*) mischief, under section 427 of the same Code ;

(*i*) house-trespass, under section 448, and offences under sections 451, [2][453, 454], 456 and 457 of the same Code ;

(*j*) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506, of the same Code ;

(*k*) abetment of any of the foregoing offences ;

(*l*) an attempt to commit any of the foregoing offences, when such attempt is an offence ;

I of 1871.

(*m*) offences under section 20 of the Cattle-trespass Act, 1871 :

---

1 Subs. by the A. O. for "L. G.".
2 Ins. by the Amending Act, 1903 (1 of 1903), s. 3 and Sch. II, Pt. II.

Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

(*2*) When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been examined and proceed to re-hear the case in manner provided by this Code.

Power to invest Bench of Magistrates invested with less power.

261. The [1][Provincial Government] may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

(*a*) offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, [2][447 and 504] ; XLV of 1860.

(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine or with imprisonment for a term not exceeding one month [3][with or without fine] ;

(*c*) abetment of any of the foregoing offences ;

(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.

Procedure for summons and warrant-cases applicable.

262. (*1*) In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

Limit of imprisonment.

(*2*) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.

Record in cases where there is no appeal.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge ; but he or they shall enter in such form as the [1][Provincial Government] may direct the following particulars :—

(*a*) the serial number ;

(*b*) the date of the commission of the offence ;

(*c*) the date of the report or complaint ;

(*d*) the name of the complainant (if any) ;

(*e*) the name, parentage and residence of the accused ;

(*f*) the offence complained of and the offence (if any) proved, and in cases coming under clause (*d*), clause (*e*), clause (*f*) or clause (*g*) of sub-section (*1*) of section 260 the value of the property in respect of which the offence has been committed ;

---

1 Subs. by the A. O. for "L. G.".

2 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 75, for "and 447".

3 Ins. by s. 75, *ibid.*

(*g*) the plea of the accused and his examination (if any) ;

(*h*) the finding, and, in the case of a conviction, a brief statement of the reasons therefor ;

(*i*) the sentence or other final order ; and

(*j*) the date on which the proceedings terminated.

Record in appealable cases.

264. (*1*) In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record judgment embodying the substance of the evidence and also the particulars mentioned in section 263.

(*2*) Such judgment shall be the only record in cases coming within this section.

Language of record and judgment.

265. (*1*) Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue.

Bench may be authorized to employ clerk.

(*2*) The [1][Provincial Government] may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(*3*) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(*4*) If the Bench differ in opinion, any dissentient member may write a separate judgment.

CHAPTER XXIII.

Of Trials before High Courts and Courts of Session.

A.—Preliminary.

"High Court" defined.

266. In this Chapter, except in sections 276 and 307, and in Chapter XVIII, the expression "High Court" [2][means a High Court within the meaning[3] of the Government of India Act. 1935, and includes such other Courts as the Provincial Government may by notification in the Official

1 Subs. by the A. O. for "L. G.".

2 Subs. by the A. O. for "means a High Court of Judicature established under the Indian High Courts Act, 1861, or the Government of India Act, 1915, and includes the Chief Court of Oudh, the Court of the Judicial Commissioner of Sind, and such other Courts as the G. G. in C. may, by notification in the Gazette of India".

3 *See* s. 219 of that Act.

Gazette], declare to be High Courts for the purposes of this Chapter [1][and of Chapter XVIII].

Trials before High Court to be by jury.

267. All trials under this Chapter before a High Court shall be by jury,

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent of any High Court established under the Indian High Courts Act, 1861, [2][or the Government of India Act, 1915,] [3][or the Government of India Act, 1935], the trial may, if the High Court so directs, be by jury

24 & 25 Vict., c. 104
5 & 6 Geo 5, c. 61.
26 Geo. 5, c. 2.

Trials before Court of Session to be by jury or with assessors.

268. All trials before a Court of Session shall be either by jury, or with the aid of assessors.

Provincial Government may order trials before Court of Session to be by jury.

269. (*1*) The [4][Provincial Government] may [5]* * * by order in the Official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may, [6]* * * revoke or alter such order.

(*2*) The [4][Provincial Government], by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offences shall, if the Judge, on application made to him or of his own motion so directs, be by jurors summoned from a special jury list, and may revoke or alter such order.

(*3*) When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.

Trial before Court of Session to be conducted by Public Prosecutor.

270. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings.

Commencement of trial.

271. (*1*) When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried

Plea of guilty.

(*2*) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 76.

2 Ins. by the Amending Act, 1916 (13 of 1916), s. 2 and Sch.

3 Ins. by the A. O.

4 Subs. by the A. O., for "L. G.".

5 The words "with the previous sanction of the G. G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

6 The words "with the like sanction," rep. by the Repealing and Amending Act, 1927 (10 of 1927), s. 3 and Sch. II.

(Chapter XXIII.—Of Trials before High Courts and Courts of Session.)

272. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case : Refusal to plead or claim to be tried.

Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit. Trial by same jury or assessors of several offenders in succession.

273. (*1*) In trials before the High Court, when it appears to the High Court, at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to ~~the~~ effect. Entry on unsustainable charges.

(*2*) Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be. Effect of entry.

C.—Choosing a Jury.

274. (*1*) In trials before the High Court the jury shall consist of nine persons. Number of jury.

(*2*) In trials by jury before the Court of Session the jury shall consist of such uneven number, not being less than [1][five] or more than nine, as the [2][Provincial Government], by order applicable to any particular district or to any particular class of offences in that district, may direct :

[3][Provided that, where any accused person is charged with an offence punishable with death, the jury shall consist of not less than seven persons and, if practicable, of nine persons.]

[4][**275.** (*1*) In a trial by jury before the High Court or Court of Session of a person who has been found under the provisions of this Code to be an European or Indian British subject, a majority of the jury shall, if such person before the first juror is called and accepted so requires, consist, in the case of an European British subject, of persons who are Europeans or Americans and, in the case of an Indian British subject, of Indians. Jury for trial of European and Indian British subjects and others.

(*2*) In any such trial by jury of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, a majority of the jury shall, if practicable and if such European or American before the first juror is called and accepted so requires, consist of persons who are Europeans or Americans.]

---

1 Subs. for "three" by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 13.

2 Subs. by the A. O. for "L. G.".

3 Ins. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 13.

4 Subs. by s. 14, *ibid*, for original s. 275.

Jurors to be chosen by lot.

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court may from time to time by rule direct :

Provided that—

Existing practice maintained ;

first, pending the issue under this section of rules for any Court the practice now prevailing in such Court in respect to the choosing of jurors shall be followed ;

persons not summoned when eligible ;

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present ;

trial before special jurors.

thirdly, [1][in a trial before any High Court in the town which is the usual place of sitting of such High Court]—

(*a*) if the accused person is charged with having committed an offence punishable with death, or

(*b*) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury list hereinafter prescribed ; and

fourthly, in any district for which the [2][Provincial Government] has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

Names of jurors to be called.

277. (*1*) As each juror is chosen, his name shall be called aloud, and upon his appearance, the accused shall be asked if he objects to be tried by such juror.

Objection to jurors.

(*2*) Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated :

Objection without grounds stated.

Provided that, in the High Court, objections without grounds stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged.

Grounds of objection.

278. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

(*a*) some presumed or actual partiality in the juror ;

(*b*) some personal grounds, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years ;

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 77, for "in the presidency towns".

2 Subs. by the A. O. for "L. G.".

(*c*) his having by habit or religious vows relinquished all care of worldly affairs ;

(*d*) his holding any office in or under the Court ;

(*e*) his executing any duties of police or being entrusted with police-duties ;

(*f*) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;

(*g*) his inability to understand the language in which the evidence is given, or when such evidence is interpreted the language in which it is interpreted ;

(*h*) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

Decision of objection.

279. (*1*) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

Supply of place of juror against whom objection allowed.

(*2*) If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, or if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury :

Provided that no objection to such juror or other person is taken under section 278 and allowed.

Foreman of jury.

280. (*1*) When the jurors have been chosen, they shall appoint one of their number to be foreman.

(*2*) The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

(*3*) If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

Swearing of jurors.

281. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873.

X of 1873.

Procedure when juror ceases to attend, etc.

282. (*1*) If, in the course of a trial by jury at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given or, when such evidence is interpreted, the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen.

(*2*) In each of such cases the trial shall commence anew.

Discharge of jury in case of sickness of prisoner.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

D.—Choosing Assessors.

Assessors how chosen.

284. When the trial is to be held with the aid of assessors, [1][not less than three and, if practicable, four shall be chosen] from the persons summoned to act as such.

Assessors for trial of European and Indian British subjects and others.

[2][**284A.** (*1*) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European or Indian British subject, if the European or Indian British subject accused, or where there are several European British subjects accused or several Indian British subjects accused, all of them jointly, before the first assessor is chosen so require, all the assessors shall, in the case of European British subjects, be persons who are Europeans or Americans or, in the case of Indian British subjects, be Indians.

(*2*) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, all the assessors shall, if practicable and if such European or American before the first assessor is chosen so requires, be persons who are Europeans or Americans.]

Procedure when assessor is unable to attend.

285. (*1*) If in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors.

(*2*) If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed and a new trial shall be held with the aid of fresh assessors.

[3][*DD.—Joint trials.*

Trial of European or Indian British subject or European or American jointly accused with others.

285A. In any case in which an European or American is accused jointly with a person not being an European or American, or an Indian British subject is accused jointly with a person not being an Indian; and such European, Indian British subject or American is committed for trial before a Court of Session, he and such other person may be tried together, but if he requires to be tried in accordance with the provisions of section 275 or section 284A and is so tried, and the other person accused requires to be tried separately, such other person shall be tried separately in accordance with the provisions of this Chapter.]

---

1 Subs. for "two or more shall be chosen, as the Judge thinks fit" by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 15.

2 S. 284A ins. by s. 16, *ibid.*

3 Ins. by s. 17, *ibid.*

(Chapter XXIII.—Of Trials before High Courts and Courts of Session.)

E.—Trial to Close of Cases for Prosecution and Defence.

Opening case for prosecution.

286. (*1*) When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

XLV of 1860.

Examination of witnesses.

(*2*) The prosecutor shall then examine his witnesses.

Examination of accused before Magistrate to be evidence.

287. The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.[1]

Evidence given at preliminary inquiry admissible.

288. The evidence of a witness [2][duly recorded in the presence of the accused under Chapter XVIII] may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case [3][for all purposes subject to the provisions of the Indian Evidence Act, 1872.]

I of 1872.

Procedure after examination of witnesses for prosecution.

289. (*1*) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

(*2*) If he says that he does not, the prosecutor may sum up his case; and, if the Court considers that there is no evidence that the accused committed the offence, it may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(*3*) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, the Court may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(*4*) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

Defence.

290. The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then

1 *See* the Indian Evidence Act, 1872 (1 of 1872), s. 80.

2 Subs. for "duly taken in the presence of the accused before the committing Magistrate" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 78.

3 Ins. by s. 78, *ibid.*

examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

Right of accused as to examination and summoning of witnesses.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance ; but he shall not, except as provided in sections 211 and 231, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

Prosecutor's right of reply.

[1] [**292.** The prosecutor shall be entitled to reply—

(*a*) if the accused or any of the accused adduces any oral evidence ; or

(*b*) with the permission of the Court, on a point of law ; or

(*c*) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence :

Provided that, in the case referred to in clause (*c*) the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced.]

View by jury or assessors.

293. (*1*) Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

(*2*) Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

When juror or assessors may be examined.

294. If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

Jury or assessors to attend at adjourned sitting.

295. If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Locking up jury.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day ; and subject to such rules, the presiding Judge may order

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 79, for original s. 292.

whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes

F.—Conclusion of Trial in Cases tried by Jury.

Charge to jury.

297. In cases tried by jury, when the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Duty of Judge.

298 (*1*) In such cases it is the duty of the Judge—

(*a*) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties ; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties ;

(*b*) to decide upon the meaning and construction of all documents given in evidence at the trial ;

(*c*) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given ;

(*d*) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

(*2*) The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

(*a*) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(*b*) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

Duty of jury.

299. It is the duty of the jury—

(*a*) to decide which view of the facts is true and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned ;

(*b*) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not ;

(*c*) to decide all questions which according to law are to be deemed questions of fact ;

(*d*) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations.

(*a*) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(*b*) The question is whether a person entertained a reasonable belief on a particular point—whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

Retirement to consider.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the Court, no person other than a juror shall speak to or hold any communication with, any member of such jury.

Delivery of verdict.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.

Procedure where jury differ.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

Verdict to be given on each charge. Judge may question jury.

303. (*1*) Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

Questions and answers to be recorded.

(*2*) Such questions and the answers to them shall be recorded.

Amending verdict.

304. When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

Verdict in High Court when to prevail.

305. (*1*) When in a case tried before a High Court the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(*2*) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

Discharge of jury in other cases.

(*3*) If the Judge disagrees with the majority, he shall at once discharge the jury.

(*4*) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Verdict in Court of Session when to prevail.

306. (*1*) When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(*2*) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall, [1][unless he proceeds in accordance with the provisions of section 562,] pass sentence on him according to law.

Procedure where Sessions Judge disagrees with verdict.

307. (*1*) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which [2][any accused person] has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case [3][in respect of such accused person] to the High Court, he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed, [3][and in such case, if the accused is further charged under the provisions of section 310, shall proceed to try him on such charge as if such verdict had been one of conviction].

(*2*) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which [2][such accused] has been tried, but he may either remand [2][such accused] to custody or admit him to bail.

(*3*) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict [2][such

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 80.

2 Subs. for "the accused" by s. 81, *ibid.*

3 Ins. by s. 81, *ibid.*

accused] of any offence of which the jury could have convicted him upon the charge framed and placed before it ; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury.

Re-trial of accused after discharge of jury

308. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

H.—Conclusion of Trial in Cases tried with Assessors.

Delivery of opinion of assessors.

309. (*1*) When, in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded, the Court may sum up the evidence for the prosecution and defence, and shall then require each of the assessors to state his opinion orally [1][on all the charges on which the accused has been tried], and shall record such opinion, [1][and for that purpose may ask the assessors such questions as are necessary to ascertain what their opinions are. All such questions and the answers to them shall be recorded].

Judgment.

(*2*) The Judge shall then give judgment, but in doing so shall not be bound to conform to the opinions of the assessors.

(*3*) If the accused is convicted, the Judge shall, [1][unless he proceeds in accordance with the provisions of section 562], pass sentence on him according to law.

I.—Procedure in case of Previous Conviction.

Procedure in case of previous conviction.

[2][310. In the case of a trial by a jury or with the aid of assessors when the accused is charged with an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely :—

(*a*) Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until,

(*i*) he has been convicted of the subsequent offence, or

(*ii*) the jury have delivered their verdict, or the opinions of the assessors have been recorded, on the charge of the subsequent offence.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 82.

2 Subs. by s. 83, *ibid*, for original s. 310.

(*b*) In the case of a trial held with the aid of assessors, the Court may, in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction.]

311. Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872. When evidence of previous conviction may be given.

I of 1872.

J.—List of Jurors for High Court, and summoning jurors for that Court.

[1][**312.** The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors' list : Number of special jurors.

Provided that no definite number of Europeans or of Americans or of Indians shall be so prescribed.]

313. (*1*) The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare— Lists of common and special jurors.

(*a*) a list of all persons liable to serve as common jurors ; and

(*b*) a list of persons liable to serve as special jurors only.

(*2*) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

(*3*) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

[2][(*4*) The Provincial Government may exempt any salaried servant of the Crown from serving as a juror.]

(*5*) The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said list as seems to him to be proper, and there shall be no appeal from, or review of, his decision. Discretion of officer preparing lists.

314. (*1*) Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown, shall be published once in the [3][Official Gazette] before the fifteenth day of April next after their preparation. Publication of lists, preliminary and revised.

(*2*) Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the [3][Official Gazette] before the first day of May next after their preparation.

---

1 Subs. by the Criminal Law Amendment Act, 1923 (12 of 1923), s 18, for original s. 312.

2 Subs. by the A. O. for original sub-section (*4*).

3 Subs. by the A. O. for "local official Gazette".

(*3*) Copies of the said lists shall be affixed to some conspicuous part of the court-house.

Number of jurors to be summoned.

315. (*1*) Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions [1][in the town which is the usual place of sitting of each High Court], [2][as many of those who are liable to serve on special or common juries respectively as the Clerk of the Crown considers necessary.]

(*2*) No person shall be so summoned more than once in six months unless the number cannot be made up without him.

Supplementary summons.

(*3*) If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

Summoning jurors outside the place of sitting of High Courts.

316. Whenever a High Court has given notice of its intention to hold sittings at any place outside the [3][town which is the usual place of sitting of such High Court] for the exercise of its original criminal jurisdiction the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

Military jurors.

317. (*1*) In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the Commanding Officer, cause to be summoned such number of commissioned and non-commissioned officers in Her Majesty's Army [4][or Air Force] resident within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

(*2*) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code ; but no such officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent [5][official] duty, or for any other special [5][official] reason.

Failure of jurors to attend.

318. Any person summoned under section 315, section 316 or section 317, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court

---

1 Subs. for "in each presidency-town" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 84.

2 Subs. for "at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries," by s. 84, *ibid.*

3 Subs. for "presidency-towns" by s. 85, *ibid.*

4 Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

5 Subs. for "military" by s. 2 and Sch. I, *ibid.*

after being ordered to attend, shall be deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit ; and, in default of payment of such fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid :

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

K—List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court.

Liability to serve as jurors or assessors.

319. All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the district in which they reside, or, if the [1][Provincial Government] on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed.

Exemptions.

320. The following persons are exempt from liability to serve as jurors or assessors, namely :—

(*a*) officers in civil employ superior in rank to a District Magistrate;

(*b*) [2][(*aa*) ~~members of any Legislature in British India~~ ;] (Members of the Central Legislature or of any Provincial Legislature)

(*b*) salaried Judges ;

(*c*) Commissioners and Collectors of Revenue or Customs ,

(*d*) police-officers and persons engaged in the Preventive Service in the Customs Department ;

(*e*) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty :

(*f*) persons actually officiating as priests or ministers of their respective religions ;

(*g*) persons in Her Majesty's Army [3][, Navy], [4][or Air Force], except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors ;

(*h*) surgeons and others who openly and constantly practise the medical profession ;

XVIII of 1879.

(*i*) legal practitioners (as defined by the Legal Practitioners' Act. 1879), in actual practice ;

(*j*) persons employed in the Post-Office and Telegraph Departments ;

(*k*) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641 ;[5]

---

1 Subs. by the A. O. for "L. G.".

2 Subs. by the A. O. for original clause (*aa*) which was ins. by the Legislative Members Exemption Act, 1925 (23 of 1925), s. 2.

3 Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

4 Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

5 *See* now the Code of Civil Procedure, 1908 (5 of 1908), ss. 132 and 133.

provisions of section 317 shall apply in like manner as they apply for the purpose of the summoning of military jurors for a trial under section 316.]

Powers to summon another set of jurors or assessors.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive or whenever for other reasons such direction is found to be necessary.

Form and contents of summons.

328. Every summons to a ~~juror~~ juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

When Crown or Railway servant may be excused.

329. When any person summoned to serve as a juror or assessor is in the service of the [1][Crown] or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

Court may excuse attendance of juror or assessor.

330. (*1*) The Court of Session may for reasonable cause excuse any juror or assessor from attendance at any particular session.

Court may relieve special jurors from liability to serve again as jurors for twelve months.

(*2*) The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

List of jurors and assessors attending.

331. (*1*) At each session the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

(*2*) Such list shall be kept with the list of the jurors and assessors as revised under section 324.

(*3*) A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

Penalty for non-attendance of juror or assessor.

332. (*1*) Any person summoned to attend as a juror or as an assessor who without lawful excuse. fails to attend as required by summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court, after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

---

[1] Subs. by the A. O. for "Govt.".

Chapter XXIII.—Of Trials before High Courts and Courts of Session.)

(*2*) Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

(*3*) For good cause shown, the Court may remit or reduce any fine so imposed.

(*4*) In default of recovery of the fine by attachment and sale, such juror or assessor may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term

L.—Special Provisions for High Courts.

Power of Advocate General to stay prosecution.

333. At any stage of any trial before a High Court under this Code, before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge ; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of holding sittings.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

Place of holding sittings.

335. (*1*) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the [1][Provincial Government], may direct.

(*2*) But it may, from time to time [2]* * * * with the consent of the [3][Provincial Government], hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Notice of sittings.

(*3*) Such officer as the Chief Justice directs shall give notice beforehand in the [4][Official Gazette] of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

336. [*Place of trial of European British subjects.*] *Rep. by s. 20 of the Criminal Law Amendment Act, 1923 (XII of 1923).*

---

1 Subs. by the A. O. for " G. G. in C. in the case of the High Court at Fort William, or the L. G. in the case of the other High Courts ".

2 The words " in the case of the High Court at Fort William with the consent of the G. G. in C., and in all other cases " rep. by the A. O.

3 Subs. by the A. O. for " L. G.".

4 Subs. by the A. O. for " local official Gazette ".

CHAPTER XXIV.

General Provisions as to Inquiries and Trials.

Tender of pardon to accomplice.

337. [1][(*1*) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code, namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof : XLV of 1860. XLV of 1860.

Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.

(*1A*) Every Magistrate who tenders a pardon under sub-section (*1*) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record :

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

(*2*) Every person accepting a tender under this section shall be examined as a witness in [2][the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any.]

[3][(*2A*) In every case where a person has accepted a tender of pardon and has been examined under sub-section (*2*), the Magistrate before whom the proceedings are pending shall, if he is satisfied that

1 Sub-sections (*1*) and (*1A*) subs. for original sub-section (*1*) by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 86.

2 Subs. for "the case" by s. 86, *ibid.*

3 Ins. by s. 86, *ibid.*

there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be.]

(*3*) Such person, [1][unless he is already on bail], shall be detained in custody until the termination of the trial [2] * * *.

[3]* * * * * *

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person. Power to direct tender of pardon.

339. (*1*) Where a pardon has been tendered under section 337 or section 338, and [4][the Public Prosecutor certifies that in his opinion] any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made [5][such person may be] tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter : Commitment of person to whom pardon has been tendered.

[4][Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made ; in which case it shall be for the prosecution to prove that such conditions have not been complied with.]

(*2*) The statement made by a person who has accepted a tender of pardon may be given in evidence against him [6][at such trial].

(*3*) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

[7][**339A.** (*1*) The Court trying under section 339 a person who has accepted a tender of pardon shall— Procedure in trial of person under section 339.

(*a*) if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (*1*), and

---

1 Subs. for "if not on bail" by the Code of Criminal Procedure (Amendment) Act, 1923, (18 of 1923), s. 86.

2 The words "by the Court of Session or High Court, as the case may be", rep. by s. 86, *ibid*

3 Sub-section (*4*) rep. by s. 86, *ibid.*

4 Ins. by s. 87, *ibid.*

5 Subs. for "he may be" by s. 87, *ibid.*

6 Subs. for "when the pardon has been forfeited under this section" by s. 87, *ibid.*

7 Ins. by s. 88, *ibid.*

(*b*) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

(*2*) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court with the aid of the assessors, or the Magistrate, as the case may be, shall, before judgment is passed in the case find whether or not the accused has complied with the conditions of the pardon, and, if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal.]

Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

[1][**340.** (*1*) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader.

(*2*) Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chaper XI, Chapter XII or Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings.]

Procedure where accused does not understand proceedings.

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial ; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

Power to examine the accused.

342. (*1*) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.

(*2*) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them ; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

(*3*) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 89, for original s. 340.

(*4*) No oath shall be administered to the accused.

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge. No influences to be used to induce disclosures.

344. (*1*) If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody : Power to postpone or adjourn proceedings.

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time. Remand.

(*2*) Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand. Reasonable cause for remand.

345. (*1*) The offences punishable under the sections of the Indian Penal Code [1][specified] in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table :— Compounding offences.

XLV of 1860.

Offence.	Sections of Indian Penal Code applicable.	Persons by whom offence may be compounded.
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323. 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.

[1] Subs. for "described" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90.

(Chapter XXIV.—General Provisions as to Inquiries and Trials.)

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Assault or use of criminal force ..	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour ..	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass	447	The person in possession of the property trespassed upon.
House trespass	448	
Criminal breach of contract of service	490, 491, 492	The person with whom the offender has contracted.
Adultery	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	
Defamation	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.
[1][Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.]

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90.

(*Chapter XXIV.—General Provisions as to Inquiries and Trials.*)

[1][(*2*) The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of the table :—

XLV of 1860.

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt ..	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining a person in secret	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Dishonest misappropriation of property	403	The owner of the property misappropriated.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto.

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90, for original sub-section (*2*).

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Cheating by personation	419	The person cheated.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Ditto.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	Ditto.
Marrying again during the lifetime of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it is intended to insult or whose privacy is intruded upon.]

(*3*) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(*4*) When the person who would otherwise be competent to compound an offence under this section is [1][under the age of eighteen years or is] an idiot or a lunatic, any person competent to contract

[1] Subs. for "a minor" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90.

on his behalf may [1][with the permission of the Court] compound such offence.

(*5*) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

[1][(*5A*) A High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section.]

(*6*) The composition of an offence under this section shall have the effect of an acquittal of the accused [1][with whom the offence has been compounded].

(*7*) No offence shall be compounded except as provided by this section.

Procedure of Provincial Magistrate in cases which he cannot dispose of.

346. (*1*) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

(*2*) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

347. (*1*) If in any inquiry before a Magistrate, or in any trial before a Magistrate, before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall [2]* * * commit the accused under the provisions hereinbefore contained.

(*2*) If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

Trial of persons previously convicted of

[3][**348.** (*1*)] Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is

XLV of 1860.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90.

2 The words "stop further proceedings and" rep. by s. 91, *ibid.*

3 S. 348 was renumbered as sub-section (*1*) of that section by s. 92, *ibid.*

offences against coinage, stamp-law or property.

again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall [1][if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused] be committed to the Court of Session or High Court, as the case may be, unless the Magistrate [2][is competent to try the case and] is of opinion that he can himself pass an adequate sentence if the accused is convicted :

Provided that, if [3][any Magistrate in the district] has been invested with powers under section 30, the case may be transferred to him instead of being committed to the Court of Session.

[1][(*2*) When any person is committed to the Court of Session or High Court under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209.]

Procedure when Magistrate cannot pass sentence sufficiently severe.

349. (*1*) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.

[4][(*1A*) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate.]

(*2*) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law :

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

Conviction or commitment on evidence

350. (*1*) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923). s. 92.

2 Subs. for "before whom the proceedings are pending" by s. 92, *ibid.*

3 Subs. for "the District Magistrate" by s. 92, *ibid.*

4 Ins. by s. 93, *ibid.*

Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself ; or he may re-summon the witnesses and recommence the inquiry or trial : partly recorded by one Magistrate and partly by another.

Provided as follows :—

(*a*) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard ;

(*b*) the High Court, or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

(*2*) Nothing in this section applies to cases in which proceedings have been stayed under section 346 [1][or in which proceedings have been submitted to a superior Magistrate under section 349].

[1][(*3*) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter within the meaning of sub-section (*1*).]

[2][**350A.** No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the Magistrates constituting the same have been present on the Bench throughout the proceedings.] Changes in constitution of Benches.

351. (*1*) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inquiry into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned. Detention of offenders attending Court.

(*2*) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun the proceedings

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 94.

2 S. 350A ins. by s. 95, *ibid.*

in respect of such person shall be commenced afresh, and the witnesses re-heard.

Courts to be open.

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them.

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

Evidence to be taken in presence of accused.

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

Manner of recording evidence outside presidency-towns.

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Record in summons-cases and in trials of certain offences by first and second class Magistrates.

355. (*1*) In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (*1*) of section 260, clauses (*b*) to (*m*), both inclusive, when tried by a Magistrate of the first or second class and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds

(*2*) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(*3*) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

Record in other cases

356. (*1*) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates), and in all inquiries under

(Chapter XXV.—Of the Mode of taking and recording Evidence in Inquiries and Trials.)

Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in the language of the Court by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence and shall be signed by the Magistrate or Sessions Judge. outside presidency-towns.

(*2*) When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record. Evidence given in English.

[1][*2A*) When the evidence of such witness is given in any other language, not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of that Court or in English shall form part of the record.]

(*3*) In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes ; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record Memorandum when evidence not taken down by the Magistrate or Judge himself.

(*4*) If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

357. (*1*) The [2][Provincial Government] may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue. unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so and shall cause the evidence to be taken down in writing from his dictation in open Court. Language of record of evidence.

(*2*) The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record :

Provided that the [2][Provincial Government] may direct the Sessions Judge or Magistrate to take down the evidence in the English

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 96.

2 Subs. by the A. O. for "L. G.".

language or in the language of the Court, although such language is not his mother-tongue.

Option to Magistrate in cases under section 355.

358. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if within the local limits of the jurisdiction of such Magistrate the [1][Provincial Government] has made the order referred to in section 357, in the manner provided in the same section.

Mode of recording evidence under section 356 or section 357.

359. (*1*) Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

(*2*) The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down, any particular question and answer.

Procedure in regard to such evidence when completed.

360. (*1*) As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

(*2*) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(*3*) If the evidence is taken down in a language different from that in which it has been given and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

Interpretation of evidence to accused or his pleader.

361. (*1*) Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

(*2*) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(*3*) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Record of evidence in Presidency Magistrates' Courts.

362. (*1*) In every case [2][tried by a Presidency Magistrate in which an appeal lies, such Magistrate] shall either take down the evidence of the witnesses with his own hand, or cause it to be taken

[1] Subs. by the A. O. for "L. G.".

[2] Subs. for "in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 97.

down in writing from his dictation in open Court All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

(*2*) Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may, in his discretion, take down, or cause to be taken down, any particular question or answer.

[1][(*2A*) In every case referred to in sub-section (*1*), the Magistrate shall make a memorandum of the substance of the examination of the accused. Such memorandum shall be signed by the Magistrate with his own hand, and shall form part of the record.]

(*3*) Sentences [1][unless they are sentences of imprisonment ordered to run concurrently] passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

[1][(*4*) In cases other than those specified in sub-section (*1*), it shall not be necessary for a Presidency Magistrate to record the evidence or frame a charge.]

363. When a Sessions Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination. Remarks respecting demeanour of witness.

364. (*1*) Whenever the accused is examined by any Magistrate, or by any Court other than a High Court ~~established by Royal Charter~~ [2]~~[or the Chief Court of Oudh]~~ [3]* * * * * [4]* * * , the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or in English : and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers. Examination of accused how recorded.

(*2*) When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge of such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 97.

2 Ins. by the Oudh Courts (Supplementary) Act, 1925 (32 of 1925), s. 2 and Sch.

3 The words "or the Chief Court of the Punjab" rep. by the Repealing and Amending Act, 1919 (18 of 1919).

4 The words "or the Chief Court of Lower Burma" rep. by the Repealing and Amending Act, 1923 (11 of 1923), s. 3 and Sch. II.

hearing and that the record contains a full and true account of the statement made by the accused.

(*3*) In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, [1]* * * * * * * * * as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language ; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(*4*) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263 [2][or in the course of a trial held by a Presidency Magistrate].

Record of evidence in High Court.

365. Every High Court, ~~established by Royal Charter~~ [3]~~[and the Chief Court of Oudh]~~ [4]* [5]* * [6]* * [7][shall] from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court, [8][and the evidence shall be taken down in accordance with such rule].

CHAPTER XXVI.

OF THE JUDGMENT.

Mode of delivering judgment.

366. (*1*) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,—

(*a*) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands :

---

1 The words "unless he is a Presidency Magistrate" rep. by the Code of Criminal Procedure (Second Amendment) Act, 1923 (37 of 1923), s. 2.

2 Subs. by s. 2, *ibid.*, for the words "or section 362, sub-section (*2A*)" which were ins. by s. 98 of Act 18 of 1923.

3 Ins. by the Oudh Courts (Supplementary) Act, 1925 (32 of 1925), s. 2 and Sch

4 The word "and" rep. by the Lower Burma Courts Act, 1900 (6 of 1900).

5 The words "the Chief Court of the Punjab" rep. by the Repealing and Amending Act, 1919 (18 of 1919).

6 The words "and the Chief Court of Lower Burma" rep. by s. 3 and Sch. II of the Repealing and Amending Act, 1923 (11 of 1923).

7 Subs. for "may" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 99.

8 Subs. by s. 99, *ibid.*, for "and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed".

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.

(*2*) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

(*3*) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(*4*) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

Language of judgment. Contents of judgment.

367. (*1*) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court [1][or from the dictation of such presiding officer] in the language of the Court, or in English ; and shall contain the point or points for determination, the decision thereon and the reasons for the decision ; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it [1][and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him].

(*2*) It shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced.

XLV of 1860.

Judgment in alternative.

XLV of 1860.

(*3*) When the conviction is under the Indian Penal Code and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(*4*) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(*5*) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed :

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury.

---

[1] Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 100.

[1][(*6*) For the purposes of this section, an order under section 118 or section 123, sub-section (*3*), shall be deemed to be a judgment.]

Sentence of death.

368. (*1*) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Sentence of transportation.

(*2*) No sentence of transportation shall specify the place to which the person sentenced is to be transported.

Court not to alter Judgment.

369. [2][Save as otherwise provided by this Code or by any other law for the time being in force or, in the case of a High Court established by Royal Charter, by the Letters Patent of such High Court, no Court], when it has signed its judgment, shall alter or review the same, except [3] * * to correct a clerical error.

Presidency Magistrate's judgment

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars :—

(*a*) the serial number of the case ;

(*b*) the date of the commission of the offence ;

(*c*) the name of the complainant (if any) ;

(*d*) the name of the accused person, and (except in the case of an European British subject) his parentage and residence ;

(*e*) the offence complained of or proved ;

(*f*) the plea of the accused and his examination (if any) ;

(*g*) the final order ;

(*h*) the date of such order ; and

(*i*) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

Copy of judgment, etc., to be given to accused on application.

371. (*1*) On the application of the accused a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost.

(*2*) In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall, on the application of the accused, be given to him without delay and free of cost.

Case of person sentenced to death.

(*3*) When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 100.

2 Subs. for "No Court other than a High Court" by s. 101, *ibid.*

3 The words and figures "as provided in sections 395 and 484 or" rep. by s. 101, *ibid.*

(Chapter XXVI.—Of the Judgment. Chapter XXVII.—Of the Submission of Sentences for Confirmation.)

372. The original judgment shall be filed with the record of proceedings, and, where the original is recorded in a different language from that of the Court, and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

Judgment when to be translated.

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

Court of Session to send copy of finding and sentence to District Magistrate.

CHAPTER XXVII.

Of the Submission of Sentences for Confirmation.

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.

Sentence of death to be submitted by Court of Session.

375. (*1*) If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

Power to direct further inquiry to be made or additional evidence to be taken.

(*2*) Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors or assessors, and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

(*3*) When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

376. In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court—

Power of High Court to confirm sentence or annul conviction.

(*a*) may confirm the sentence, or pass any other sentence warranted by law, or

(*b*) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(*c*) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

Confirmation of new sentence to be signed by two Judges.

377. In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more judges, be made, passed and signed by at least two of them.

Procedure in case of difference of opinion.

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Procedure in cases submitted to High Court for confirmation.

379. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

Procedure in cases submitted by Magistrate not empowered to act under section 562.

380. Where proceedings are submitted to a Magistrate of the first class or a Sub-divisional Magistrate as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

CHAPTER XXVIII.

Of Execution.

Execution of order passed under section 376.

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

Postponement of capital sentence on pregnant woman.

382 If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute the sentence to transportation for life.

Execution of sentences of transportation or imprisonment in other cases

383. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is, or is to be, confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

(*Chapter XXVIII.—Of Execution.*)

384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined. Direction of warrant for execution.

385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor. Warrant with whom to be lodged.

[1][**386.** (*1*) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may— Warrant for levy of fine.

(*a*) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender ;

(*b*) issue a warrant to the Collector of the District authorising him to realise the amount by execution according to civil process against the movable or immovable property, or both, of the defaulter :

Provided that, if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless for special reasons to be recorded in writing it considers it necessary to do so.

(*2*) The [2][Provincial Government] may make rules regulating the manner in which warrants under sub-section (*1*), clause (*a*), are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(*3*) Where the Courts issue a warrant to the Collector under sub section (*1*), clause (*b*), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the Code of Civil Procedure, 1908, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly : V of 1908.

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.]

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 102, for original s. 386.

(93) 2 Subs. by the A. O. for "L. G.".

Effect of such warrant.

387. [1][A warrant issued under section 386, sub-section (*1*), clause (*a*), by any Court] may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the [2][attachment] and sale of any such property without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

Suspension of execution of sentence of imprisonment.

[3][**388.** (*1*) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may—

(*a*) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and

(*b*) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made ; and if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(*2*) The provisions of sub-section (*1*) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith ; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.]

Who may issue warrant.

389. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office.

---

1 Subs. for "Such warrant" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 103.

2 Subs. for "distress", by s. 103, *ibid.*

3 Subs. by the Code of Criminal Procedure (Second Amendment) Act, 1923 (37 of 1923), s. 3, for original s. 388.

(*Chapter XXVIII.—Of Execution.*)

390. When the accused is sentenced to whipping only, the sentence shall [1][subject to the provisions of section 391] be executed at such place and time as the Court may direct.

Execution of sentence of whipping only.

391. (*1*) When the accused—

Execution of sentence of whipping, in addition to imprisonment.

[2][(*a*) is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, or

(*b*) is sentenced to whipping in addition to imprisonment,]

the whipping shall not be inflicted until fifteen days from the date of the sentence, or, if an appeal is made within that time, until the sentence is confirmed by the Appellate Court, but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

(*2*) The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

(*3*) No accused person shall be sentenced to whipping in addition to imprisonment when the term of imprisonment to which he is sentenced is less than three months.

392. (*1*) In the case of a person of or over sixteen years of age whipping shall be inflicted with a light rattan not less than half an inch in diameter, in such mode, and on such part of the person, as the [3][Provincial Government] directs ; and, in the case of a person under sixteen years of age, it shall be inflicted in such mode, and on such part of the person, and with such instruments, as the [3][Provincial Government] directs.

Mode of inflicting punishment.

(*2*) In no case shall such punishment exceed thirty stripes [4][and, in the case of a person under sixteen years of age, it shall not exceed fifteen stripes].

Limit of number of stripes.

393. No sentence of whipping shall be executed by instalments : and none of the following persons shall be punishable with whipping, namely :—

Not to be executed by instalments. Exemptions.

(*a*) females ;

(*b*) males sentenced to death or to transportation, or to penal servitude, or to imprisonment for more than five years ;

---

1 Ins. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 21.

2 Subs. for "is sentenced to whipping in addition to imprisonment in a case which is subject to appeal" by s. 22, *ibid.*

3 Subs. by the A. O., for "L. G.".

4 Ins. by the Whipping Act, 1909 (4 of 1909), s. 7.

(*c*) males whom the Court considers to be more than forty-five years of age.

Whipping not to be inflicted if offender not in fit state of health.

394. (*1*) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

Stay of execution.

(*2*) If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Procedure if punishment cannot be inflicted under section 394.

395. (*1*) In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it ; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months, [1][or to a fine not exceeding five hundred rupees], which may be in addition to any other punishment to which he may have been sentenced for the same offence.

(*2*) Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term [1][or a fine of an amount] exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

Execution of sentences on escaped convicts.

396. (*1*) When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and, if of imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say :—

(*2*) If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

(*3*) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 105.

Explanation.—For the purposes of this section—

(*a*) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment ;

(*b*) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement ; and

(*c*) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

Sentence on offender already sentenced for another offence.

397. When a person already undergoing a sentence of imprisonment, penal servitude or transportation, is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence at the expiration of the imprisonment, penal servitude or transportation to which he has been previously sentenced, [1][unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence] :

Provided that, if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction is one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced :

[1][Provided, further, that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.]

Saving as to sections 396 and 397.

398. (*1*) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(*2*) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 106.

(Chapter XXVIII.—Of Execution. Chapter XXIX.—Of Suspensions, Remissions and Commutations of Sentences.)

Confinement of youthful offenders in reformatories.

399. (*1*) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the [1][Provincial Government] as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as the [1][Provincial Government] prescribes with regard to the discipline and training of persons confined therein.

(*2*) All persons confined under this section shall be subject to the rules so prescribed.

(*3*) This section shall not apply to any place in which the Reformatory Schools Act, 1897, is for the time being in force. VIII of 1897.

Return of warrant on execution of sentence.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

CHAPTER XXIX.

Of Suspensions, Remissions and Commutations of Sentences.

Power to suspend or remit sentences.

[2]**401.** (*1*) When any person has been sentenced to punishment for an offence, [3] * * * * * * the [1][Provincial Government] may at any time without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(*2*) Whenever an application is made to [3] * * * * * * the [1][Provincial Government] for the suspension or remission of a sentence, [3]* * * * * * the [1][Provincial Government] [4]* * * * * * may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion [5][and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists].

---

1 Subs. by the A. O. for "L. G.".

2 As regards conditional release of good conduct prisoners in the Punjab, *see* the Good Conduct Prisoners' Probational Release Act, 1926 (Punjab Act 10 of 1926).

3 The words "the G. G. in C. or" rep. by the A. O.

4 The words "as the case may be" rep. by the A. O.

5 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 107.

(*Chapter XXIX.—Of Suspensions, Remissions and Commutations of Sentences.*)

(*3*) If any condition on which a sentence has been suspended or remitted is, in the opinion of [1] * * * [2]*of* the [3][Provincial Government], [4]* * * not fulfilled, [1]* * * the [3][Provincial Government] may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

(*4*) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

[5][(*4A*) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property.]

(*5*) Nothing herein contained shall be deemed to interfere with the right of [6][His Majesty or of the [7][Central Government] when such right is delegated to [8][it]] to grant pardons, reprieves, respites or remissions of punishment.

[5][(*5A*) Where a conditional pardon is granted by His Majesty or, in virtue of any powers delegated to [8][it], by the [7][Central Government], any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly.]

(*6*) The [9]* * * [3][Provincial Government] may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with.

Power to commute punishment.

[10][**402.** (*1*)] The [11]* * * [3][Provincial Government] may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it :—

death, transportation, penal servitude, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

1 The words "the G. G. in C. or" rep. by the A. O.
2 The second "of" is superfluous.
3 Subs. by the A. O. for "L. G.".
4 The words "as the case may be" rep. by the A. O.
5 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 107.
6 Subs. by s. 107, *ibid.*, for "Her Majesty".
7 Subs. by the A. O. for "Governor General".
8 Subs. by the A. O. for "him".
9 The words "G. G. in C. and the" rep. by the A. O.
10 S. 402 was re-numbered as sub-section (*1*) of that section by s. 108 of Act 18 of 1923.
11 The words "G. G. in C. or the" rep. by the A. O.

(*Chapter XXIX.—Of Suspensions, Remissions and Commutations of Sentences. Chapter XXX.—Of previous Acquittals or Convictions.*)

[1][(2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Indian Penal Code.] XLV of 1860.

Sentences of death.

[2][**402A.** The powers conferred by sections 401 and 402 upon the Provincial Government may, in the case of sentences of death, also be exercised by the Governor General ~~in his discretion~~.]

CHAPTER XXX.

OF PREVIOUS ACQUITTALS OR CONVICTIONS.

Person once convicted or acquitted not to be tried for same offence.

403. (*1*) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237.

(*2*) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, sub-section (*1*).

(*3*) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(*4*) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(*5*) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897, or section 188 of this Code. X of 1897.

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 108.

2 Ins. by the A. O., *cf.* the G. of I. Act, 1935, s. 295.

(Chapter XXX.—Of previous Acquittals or Convictions. Chapter XXXI.—Of Appeals.)

Illustrations.

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(*c*) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(*d*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*e*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of the section.

(*f*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*g*) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.[1]

Unless otherwise provided, no appeal to lie.

404. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

Appeal from order rejecting application for restoration of attached property.

405. Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

Appeal from order requiring security for keeping the peace or for good behaviour.

[2][**406.** Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order—

(*a*) if made by a Presidency Magistrate, to the High Court;

(*b*) if made by any other Magistrate, to the Court of Session:

---

1 For periods of limitation, *see* the Indian Limitation Act, 1908 (9 of 1908), s. 3 and Sch. I, second division.

2 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 109, for original s. 406.

Provided that the [1][Provincial Government] may, by notification in the [2][Official Gazette], direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session :

Provided, further, that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (*2*) or sub-section (*3A*) of section 123.]

Appeal from order refusing to accept or rejecting a surety.

[3][**406A** Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order,—

(*a*) if made by a Presidency Magistrate, to the High Court ;

(*b*) if made by the District Magistrate, to the Court of Session ; or

(*c*) if made by a Magistrate other than the District Magistrate, to the District Magistrate]

Appeal from sentence of Magistrate of the second or third class.

407. (*1*) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 [4][or in respect of whom an order has been made or a sentence has been passed under section 380] by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.

Transfer of appeals to first class Magistrate.

(*2*) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the [1][Provincial Government] to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.

408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 [5][or in respect of whom an order has been made or a sentence has been passed under section 380] by a Magistrate of the first class, may appeal to the Court of Session :

---

1 Subs. by the A. O., for "L. G.".
2 Subs. by the A. O., for "local official Gazette".
3 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 110.
4 Ins. by s. 111, *ibid.*
5 Ins. by s. 112, *ibid.*

(" 411A. Appeal from sentence of High Court.-

(1) Without prejudice to the provisions of section 449 any person convicted on a trial held by High Court in the exercise of its original criminal jurisdiction may,notwithstand--ing any thing contained in section 418,sub-section (2), or in the Letters Patent of any High Court, appeal to the High Court-

(a) against the conviction on any ground of appeal which involves a matter of law only;

(b) with the leave o f the Appellate Court, Or upon the certificate of the judge who tried the case that it is fir case for appeal,against the conviction on any ground of appeal which involves a matter of fact only,or a matter of mixed law and fact, or any other ground which appears to the Appellate Court to be a sufficient ground of appeal; and

(c) with the leave of the aooellate Court, against the sentence passed unless the sentence is one fixed by law.

(2) Nothwithstanding any thing contained in section 417,the Provincial Government may direct the Public Prosecutor to present an Appeal to the High Court from any order of acquittal passed by the High Court in the exercise of its original criminal jurisdiction, and such appeal may, notwithstanding anything contained in section 418,or section 423,sub-section (2),or in the Letters Patent of any High Court,but subject to the restrictions imposed by clause(b)and clause(c) of sub-section (1) of this section on an appeal against a conviction,lie on a metter of fact as well as a matter of law.

(3) Notwithstanding anything elsewhere contained in anyAct or Regulation, an appeal under this section shall be heard by a Division Court of the High Court composed of not less than two [illegible] Judge or Judges by [illegible] Appeal under section 527 to another High Court.

(4) Shubject to such rules as may from time to time be made by His Majesty in Council in this behalf,and to such conditions as the High Court may establish or require, an appeal shall lie to His Majesty in Council from any order made on appeal under sub-section (1) by a Division Court of the High Court in respect of which order the High Court declares that the matter is a fit one for such Appeal")

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

No appeal from certain summary convictions.

414. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence [1]* * of fine not exceeding two hundred rupees only [2]* *.

Proviso to sections 413 and 414.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 ~~by which any two or more of the punishments therein mentioned are combined~~, but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

Explanation.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

Special right of appeal in certain cases.

[3][**415A.** Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial. and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal.]

416. [*Saving of sentences on European British subjects.*] *Rep. by the Criminal Law Amendment Act, 1923* (*XII of 1923*), *s. 26.*

Appeal on behalf of Government in case of acquittal.

417. The [4][Provincial Government] may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

Appeal on what matters admissible.

[5][**418.** (*1*)]An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

[6][(*2*) Notwithstanding anything contained in sub-section (*1*) or in section 423, sub-section (*2*), when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law.]

---

1 The words "of imprisonment not exceeding three months only, or" rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 25.

2 The words "or of whipping only" rep. by s. 25, *ibid.*

3 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 114.

4 Subs. by the A. O. for "L. G.".

5 S. 418 was re-numbered as sub-section (*1*) of that section by Act 18 of 1923, s. 115.

6 Ins. by s. 115, *ibid.*

Explanation.—The alleged severity of a sentence shall, for the purposes of this section, be deemed to be a matter of law.

Petition of appeal.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

Procedure when appellant in jail.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

Summary dismissal of appeal.

421. (*1*) On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily :

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

(*2*) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

Notice of appeal.

422. If the Appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to such officer as the [1][Provincial Government] may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal ;

and, in cases of appeals under ~~section 417,~~ (Section 411-A, Sub-section (2) or Section 417) the Appellate Court shall cause a like notice to be given to the accused.

Powers of Appellate Court in disposing of appeal.

423. (*1*) The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under ~~section 417~~ Section 411 Sub section or Section, the accused, if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law ;

---

[1] Subs. by the A. O. 1937 for "L. G.".

Provided as follows :—

[1]* * * * * *

(*b*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal [2][of all or any of the accused convicted at such trial] shall lie to the High Court ;

(*c*) when any person is convicted by a Magistrate of an offence under section 124A of the Indian Penal Code, the appeal shall lie to the High Court.

Appeals to Court of Session how heard.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge :

[3][Provided that an Additional Sessions Judge shall hear only such appeals as the [4][Provincial Government] may, by general or special order, direct or as the Sessions Judge of the division may make over to him.]

Appeal from sentence of Court of Session.

410. Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court.

Appeal from sentence of Presidency Magistrate.

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court, if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.

No appeal in certain cases when accused pleads guilty.

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or any Presidency Magistrate or Magistrate of the first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

No appeal in petty cases.

413. Notwithstanding anything hereinbefore contained, there shall [illegible] (" a High Court passes sentence of imprisonment not exceeding six months only or of fine not exceeding two hundred rupees only [illegible]) fifty rupees only [illegible].

1 Clause (*a*) of the proviso rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 23.

2 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 112

3 Ins. by s. 113, *ibid.*

4 Subs by the A. O for " L. G.".

5 The words " or the District Magistrate or other Magistrate of the first class " rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 24.

6 Ins. by s. 24, *ibid.*

7 The words " or of whipping only " rep. by s. 24, *ibid.*

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

No appeal from certain summary convictions.

414. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence [1]* * of fine not exceeding two hundred rupees only [2]* *.

Proviso to sections 413 and 414.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 ~~by which any two or more of the punishments therein mentioned are combined~~, but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

Explanation.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

Special right of appeal in certain cases.

[3][**415A.** Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal.]

416. [*Saving of sentences on European British subjects.*] *Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 26.*

Appeal on behalf of Government in case of acquittal.

417. The [4][Provincial Government] may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

Appeal on what matters admissible.

[5][**418.** (*1*)]An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

[6][(*2*) Notwithstanding anything contained in sub-section (*1*) or in section 423, sub-section (*2*), when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law.]

---

1 The words "of imprisonment not exceeding three months only, or" rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 25.

2 The words "or of whipping only" rep. by s. 25, *ibid.*

3 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 114.

4 Subs. by the A. O. for "L. G.".

5 S. 418 was re-numbered as sub-section (*1*) of that section by Act 18 of 1923, s. 115.

6 Ins. by s. 115, *ibid.*

Explanation.—The alleged severity of a sentence shall, for the purposes of this section, be deemed to be a matter of law.

Petition of appeal.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

Procedure when appellant in jail.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

Summary dismissal of appeal.

421. (*1*) On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily :

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

(*2*) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

Notice of appeal.

422. If the Appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to such officer as the [1][Provincial Government] may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal ; (Section 411-A, sub-section (2) or Section 41

and, in cases of appeals under ~~section 417~~, the Appellate Court shall cause a like notice to be given to the accused.

Powers of Appellate Court in disposing of appeal.

423. (*1*) The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under ~~section 417~~, the accused, if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may— Section 41 sub-sect or Section

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law ;

---

[1] Subs. by the A. O. 1937 for "L. G.".

(*b*) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (2) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or, (3) with or without such reduction and with or without altering the finding, alter the nature of the sentence, but, subject to the provisions of section 106, sub-section (*3*), not so as to enhance the same ;

(*c*) in an appeal from any other order, alter or reverse such order ;

(*d*) make any amendment or any consequential or incidental order that may be just or proper.

(*2*) Nothing herein contained shall authorize the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

Judgments of subordinate Appellate Courts.

424. The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court :

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

Order by High Court on appeal to be certified to lower Court.

425. (*1*) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

(*2*) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court ; and, if necessary, the record shall be amended in accordance therewith.

Suspension of sentence pending appeal. Release of appellant on bail.

426. (*1*) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail or on his own bond.

(*2*) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

"(2A) When any person other than a person accused of anon-bailable offence is setenced to imprisonment by a court, and appeal lies from that setence,the Court may,if the convicted person satisfies the Court that he intends to present am appeal, order that he be released on bail for a period sufficient in the opinion of the court to enable him to present the appeal and obtain the orders of the Appellate Court under sub-section (1) and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended.)

(2B) Where a High Court is satisfied that a convicted person has been granted special leave to appeal to His Majesty in Council against any sentence which it has imposed or maintained, or has been granted leave to Appeal to His Majesty in Council against an order of the Federal Court on an appeal from the High Court involving the imposition or maintenance of a sentence it may if it so thinks fit order that pending the Appeal the sentence or order appealed against be suspended and also,if the said person is in confine--ment,that he be released on bail.)

(*3*) When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

427. When an appeal is presented under ~~section 417~~ (section 411 A, sub-section (2) or section, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail.

Arrest of accused in appeal from acquittal.

428. (*1*) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

Appellate Court may take further evidence or direct it to be taken.

(*2*) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(*3*) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken ; but such evidence shall not be taken in the presence of jurors or assessors.

(*4*) The taking of evidence under this section shall be subject to the provisions of Chapter XXV, as if it were an inquiry.

429. When the Judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Procedure where Judges of Court of Appeal are equally divided.

430. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII. (section 411 A, sub-section (2) or section 417) (1)

Finality of orders on appeal.

431. Every appeal under ~~section 417~~ shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant.

Abatement of appeals.

CHAPTER XXXII.

Of Reference and Revision.

432. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference

Reference by Presidency Magistrate to High Court.

and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon.

Disposal of case according to decision of High Court.

433. (*1*) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order.

Direction as to costs.

(*2*) The High Court may direct by whom the costs of such reference shall be paid.

Power to reserve questions arising in original jurisdiction of High Court.

434. (*1*) When any person has, in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

Procedure when question reserved.

(*2*) If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail ; and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the High Court thinks fit.

Power to call for records of inferior Courts.

435. (*1*) The High Court or any Sessions Judge or District Magistrate, or any Sub-divisional Magistrate empowered by the [1][Provincial Government] in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court [2][and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation.—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437.]

(*2*) If any Sub-divisional Magistrate acting under sub-section (*1*) considers that any such finding, sentence or order is illegal or improper,

---

1 Subs. by the A. O. for "L. G.".

2 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 116.

or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

[1]* * * * * *

(*4*) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.

Power to order inquiry

[2][**436**]. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (*3*) of section 204, or into the case of any [3][person accused of an offence] who has been discharged :

[4][Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of shewing cause why such direction should not be made.]

Power to order commitment.

[5][**437**]. When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged :

Provided as follows :—

(*a*) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made ;

(*b*) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

Report to High Court.

438. (*1*) The Sessions Judge or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examina-

1 Sub-section (*3*) rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 116.

2 This section which was originally numbered 437 was re-numbered 436 by s. 117, *ibid.*

3 Subs. for "accused person" by s. 117, *ibid.*

4 Ins. by s. 117, *ibid.*

5 This section which was originally numbered 436 was re-numbered 437 by s. 117, *ibid.*

tion, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.

(*2*) An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him [1][by or under any general or special order of the Sessions Judge].

High Court's powers of revision.

439. (*1*) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections [2]* 423, 426, 427 and 428 or on a Court by section 338, and may enhance the sentence ; and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429.

(*2*) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(*3*) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(*4*) Nothing in this section applies to an entry made under section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

(*5*) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

[3][(*6*) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (*2*) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction.]

Optional with Court to hear parties.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision :

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (*2*).

---

1 Subs. for "by the Sessions Judge" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 118.

2 The figures "195" rep. by s. 119, *ibid.*

3 Ins. by s. 119, *ibid.*

(*Chapter XXXII.—Of Reference and Revision. Chapter XXXIII.—Special provisions relating to cases in which European and Indian British subjects are concerned.*)

Statement by Presidency Magistrate of grounds of his decision to be considered by High Court.

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue ; and the Court shall consider such statement before overruling or setting aside the said decision or order.

High Court's order to be certified to lower Court or Magistrate.

442. When a case is revised under this Chapter by the High Court, it shall, in manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified ; and, if necessary, the record shall be amended in accordance therewith.

PART VIII.

SPECIAL PROCEEDINGS.

[1][CHAPTER XXXIII.

SPECIAL PROVISIONS RELATING TO CASES IN WHICH EUROPEAN AND INDIAN BRITISH SUBJECTS ARE CONCERNED.

Determination regarding applicability of this Chapter.

443. (*1*) Where, in the course of the trial outside a presidency-town of any offence punishable with imprisonment, the accused person, at any time before he is committed for trial under section 213 or is asked to show cause under section 242 or enters on his defence under section 256, as the case may be, claims that the case ought to be tried under the provisions of this Chapter, the Magistrate inquiring into or trying the case, after making such inquiry as he thinks necessary, and after allowing the accused person reasonable time within which to adduce evidence in support of his claim, shall, if he is satisfied—

(*a*) that the complainant and the accused persons or any of them are respectively European and Indian British subjects or Indian and European British subjects, or

(*b*) that, in view of the connection with the case of both an European British subject and an Indian British subject, it is expedient for the ends of justice that the case should be tried under the provisions of this Chapter,

record a finding that the case is a case which ought to be tried under the provisions of this Chapter, or, if he is not so satisfied, record a finding that it is not such a case.

1 Chapter XXXIII (sections 443 to 449) was subs. for original Chapter XXXIII (sections 443 to 463) by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 27.

(Chapter XXXIII.—Special provisions relating to cases in which European and Indian British subjects are concerned.)

(*2*) Where the Magistrate rejects the claim, the person by whom it was made may appeal to the Sessions Judge, and the decision of the Sessions Judge thereon shall be final and shall not be questioned in any Court in appeal or revision.

(*3*) Where the Magistrate rejects the claim, he shall stay the proceedings until the expiration of the period allowed for the presentation of the appeal or, if an appeal is presented, until it has been decided.

Definition of "complainant".

444. For the purposes of section 443, "complainant" means any person making a complaint or, in relation to any case of which cognizance is taken under clause (*b*) of section 190, sub-section (*1*), any person who has given information relating to the commission of the offence within the meaning of section 154 :

Provided that a Public Prosecutor, a public servant, a member, officer or servant of any local authority, a railway servant as defined in section 3 of the Indian Railways Act, 1890, or an officer or servant of any company, association or other body to which the [1][Provincial Government] may, by general or special order published in the [2][Official Gazette], declare the provisions of this section to apply, shall not, by reason only of the fact that he has made a complaint of, or given information of, an offence in his capacity as such Public Prosecutor, Public servant, railway servant, member, officer or servant, be deemed to be a complainant within the meaning of this section, nor shall a police-officer be so deemed by reason only of the fact that a report under section 173 relating to a case has been made by or through him. IX of 1890.

Procedure in summons-cases.

445. (*1*) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a summons-case, the Magistrate trying the same shall direct that the case be referred to a Bench of two Magistrates and shall send a copy of such order to the District Magistrate who shall forthwith provide for the constitution of a Bench of two Magistrates of the first class, of whom one shall be an European and the other an Indian, for the trial of the case.

(*2*) Where the Magistrates constituting the Bench by which a case is tried under this section differ in opinion, the case, together with their opinions thereon, shall be laid before the Sessions Judge, who may examine any party or recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall thereafter pass such judgment, sentence or order in the case as he thinks fit and as is according to law.

---

1 Subs. by the A. O. for "L. G.".
2 Subs. by the A. O. for "local official Gazette".

(Chapter XXXIII.—Special provisions relating to cases in which European and Indian British subjects are concerned.)

(*3*) Any person convicted by a Bench under this section shall have the same right of appeal as if he had been convicted by a Magistrate of the first class, and any person convicted by a Sessions Judge under sub-section (*2*) shall have the same right of appeal to the High Court as if he had been convicted by the Sessions Judge at a trial held by the Sessions Judge under this Code.

(*4*) In any case in which it is impracticable to constitute a Bench in accordance with the provisions of sub-section (*1*) in any district, the District Magistrate shall transfer the case for trial by a like Bench to such other district as the High Court may, by general or special order, direct.

(*5*) Notwithstanding anything contained in this section, the [1][Provincial Government] may, by notification in the [2][Official Gazette], direct that all summons-cases tried under the provisions of this Chapter in any district specified in the notification shall be tried as if they were warrant-cases in accordance with the provisions hereinafter in this Chapter laid down for the trial of warrant-cases.

Procedure in warrant-cases.

446. (*1*) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a warrant-case, the Magistrate inquiring into or trying the case shall, if he does not discharge the accused under section 209 or section 253, as the case may be, commit the case for trial to the Court of Session, whether the case is or is not exclusively triable by that Court.

(*2*) Where an accused is committed to the Court of Session under sub-section (*1*), the Court shall proceed to try the case as if the accused had required to be tried in accordance with the provisions of section 275, and the provisions of that section and the other provisions of Chapter XXIII, so far as they are applicable, shall apply accordingly :

Provided that where the trial before the Court of Session would in the ordinary course be with the aid of assessors and the accused, or all of them jointly, require to be tried in accordance with the provisions of section 284A, the trial shall be held with the aid of assessors all of whom shall, in the case of European British subjects, be persons who are Europeans or Americans or, in the case of Indian British subjects, be Indians.

Court to inform accused persons of their rights in certain cases.

447. If at any stage of an inquiry or trial under this Code it appears to the Magistrate that the case is or might be held to be a case which ought to be tried under the provisions of this Chapter, he shall forthwith inform the accused person of his rights under this Chapter.

448. [*References to Sessions Judge to be construed as references to High Court in Rangoon.*] *Rep. by the A. O.* 1937

---

1 Subs. by the A. O. for "L. G.".
2 Subs. by the A. O. for "local official Gazette".

1937

(*Chapter XXXIII.—Special provisions relating to cases in which European and Indian British subjects are concerned. Chapter XXXIV.—Lunatics.*)

Special provisions relating to appeal.

449. (*1*) Where—

(*a*) a case is tried by jury in a High Court or Court of Session under the provisions of this Chapter, or

(*b*) a case which would otherwise have been tried under the provisions of this Chapter is under this Code committed to or transferred to the High Court and is tried by jury in the High Court, or

(*c*) a case is tried by jury in the High Court in a presidency-town and the High Court grants leave to appeal on the ground that the case would, if it had been tried outside a presidency-town, have been triable under the provisions of this Chapter,

then, notwithstanding anything contained in section 418 or section 423, sub-section (*2*), or in the letters patent of any High Court, an appeal may lie to the High Court on a matter of fact as well as on a matter of law.

(*2*) Notwithstanding anything contained in the letters patent of any High Court, the [1][Provincial Government] may direct the Public Prosecutor to present an appeal to the High Court from an original order of acquittal passed by the High Court in any such trial as is referred to in sub-section (*1*).

(*3*) An appeal under sub-section (*1*) or sub-section (*2*) shall, where the High Court consists of more than one Judge, be heard by two Judges of the High Court.]

[2] **450 to 463.** [*Repealed.*]

CHAPTER XXXIV.

LUNATICS.

Procedure in case of accused being lunatic.

464. (*1*) When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the [1][Provincial Government] directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.

[3][(*1*A) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466.]

(*2*) If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he [3][shall record

1 Subs. by the A. O. for "L. G".
2 *See* the footnote to Chapter XXXIII, *supra*.
3 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 120.

a finding to that effect and] shall postpone further proceedings in the case.

465. (*1*) If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury, or the Court with the aid of assessors, shall, in the first instance, try the fact of such unsoundness and incapacity, [1][and if the jury or Court, as the case may be, is satisfied of the fact, the Judge shall record a finding to that effect and shall postpone further proceedings in the case and the jury, if any, shall be discharged]. **Procedure in case of person committed before Court of Session or High Court being lunatic.**

(*2*) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

466. (*1*) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, [2][whether the case is one in which bail may be taken or not], may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf. **Release of lunatic pending investigation or trial.**

[3][(*2*) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the [4][Provincial Government] : **Custody of lunatic.**

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the [4][Provincial Government] may have made under the Indian Lunacy Act, 1912.] **IV of 1912.**

467. (*1*) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court. **Resumption of inquiry or trial.**

(*2*) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

---

1 Subs. by s. 121 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), for "and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed".

2 Subs. by s. 122, *ibid*, for "if the case is one in which bail may be taken".

3 Subs. by s. 122, *ibid*, for original sub-section (*2*).

(93) 4 Subs. by the A. O. for "L. G.".

Procedure on accused appearing before Magistrate or Court.

468. (*1*) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(*2*) If the Magistrate or Court considers the accused [1]* to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be, [2][and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 466].

When accused appears to have been insane.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

Judgment of acquittal on ground of lunacy.

470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Person acquitted on such ground to be detained in safe custody.

471. (*1*) Whenever [3][the finding] states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be [4][detained] in safe custody in such place and manner as the Magistrate or Court thinks fit, [5][and shall report the action taken to the [6][Provincial Government]] [7]* * *:

[8][Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the [6][Provincial Government] may have made under the Indian Lunacy Act, 1912.] IV of 1912.

[9]* * * * * *

---

1 The word "person" rep. by s. 123 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923).

2 Ins. by s. 123, *ibid.*

3 Subs. by s. 124, *ibid*, for "such judgment".

4 Subs. by s. 124, *ibid*, for "kept".

5 Ins. by s. 124, *ibid.*

6 Subs. by the A. O. for "L. G.".

7 The words "and shall report the case for the orders of the L. G." rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

8 Ins. by Act 18 of 1923, s. 124.

9 Sub-sections (*2*) and (*3*) rep. by the Indian Lunacy Act, 1912 (4 of 1912), s. 101 and Sch. II.

[1][(2)]The [2][Provincial Government] may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or any of the functions of the Inspector General of Prisons under [3]* * section 473 or section 474.

Power of Provincial Government to relieve Inspector General of certain functions.

472. [*Lunatic prisoners to be visited by Inspector General.*] *Rep. by the Indian Lunacy Act, 1912 (IV of 1912), s. 101 and Sch. II.*

473. If such person is [4][detained] under the provisions of section 466, and [5][in the case of a person detained in a jail, the Inspector General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum or any two of them] shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468 ; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner is reported capable of making his defence.

474. (*1*) If such person is [6][detained] under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be [7][released] without danger of his doing injury to himself or to any other person, the [2][Provincial Government] may thereupon order him to be [7][released] or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum ; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

Procedure where lunatic detained under section 466 or 471 is declared fit to be released.

(*2*) Such Commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the [2][Provincial Government], which may order his [8][release] or detention as it thinks fit.

[9][**475.** (*1*) Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, the [2][Provincial Government] may, upon the application of such relative or friend and on his giving security

Delivery of lunatic to care of relative or friend.

---

1 Original sub-section (*4*) was re-numbered "(*2*)" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 124.

2 Subs. by the A. O., for "L. G.".

3 The word and figures "section 472" rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

4 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 125, for "confined".

5 Subs. by s. 125, *ibid*, for "such Inspector General or visitors".

6 Subs. by s. 126, *ibid*, for "confined".

7 Subs. by s. 126, *ibid*, for "discharged".

8 Subs. by s. 126, *ibid*, for "discharge".

9 Subs. by s. 127, *ibid*, for original s. 475.

to the satisfaction of such [1][Provincial Government] that the person delivered shall—

(*a*) be properly taken care of and prevented from doing injury to himself or to any other person, and

(*b*) be produced for the inspection of such officer, and at such times and places, as the [1][Provincial Government] may direct, and

(*c*) in the case of a person detained under section 466, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(*2*) If the person so delivered is accused of any offence the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (*1*), clause (*b*), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court ; and, upon such production, the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence.]

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

Procedure in cases mentioned in section 195.

[2][**476.** (*1*) When any Civil, Revenue or Criminal Court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in section 195, sub-section (*1*), clause (*b*) or clause (*c*), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to a Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate.

1 Subs. by the A. O. for "L. G.".

2 Ss. 476, 476A and 476B were substituted for the original s. 476 by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 128.

(*Chapter XXXV.—Proceedings in case of certain Offences affecting the Administration of Justice.*)

[1][Provided that, where the Court making the complaint is a High Court, the complaint may be signed by such officer of the Court as the Court may appoint.]

For the purposes of this sub-section, a[2]* * * Presidency Magistrate shall be deemed to be a Magistrate of the first class.

(*2*) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.

(*3*) Where it is brought to the notice of such Magistrate or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage adjourn the hearing of the case until such appeal is decided.

Superior Court may complain where subordinate Court has omitted to do so.

476A. The power conferred on Civil, Revenue and Criminal Courts by section 476, sub-section (*1*), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 195, sub-section (*3*), in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint ; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.

Appeals.

476B. Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (*3*), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and if it makes such complaint the provisions of that section shall apply accordingly.

477. [*Power of Court of Session as to such offences committed before itself.*] *Rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923), s. 129.*

Power of Civil and Revenue Courts to complete inquiry and commit to

478. (*1*) When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 6.

2 The word "Chief" rep. by s. 6, *ibid.*

High Court or Court of Session.

or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

(*2*) For the purposes of an inquiry under this section the Civil or Revenue Court may [1] * * exercise all the powers of a Magistrate ; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, [2][and of Chapter XXXIII in cases where that Chapter applies] and shall be deemed to have been held by a Magistrate.

Procedure of Civil or Revenue Court in such cases.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

Procedure in certain cases of contempt.

480. (*1*) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender [3]* * * to be detained in custody and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid. XLV of 1860.

(*2*) Nothing in [4][section 29A or in Chapter XXXIII] shall be deemed to apply to proceedings under this section.

Record in such cases.

481. (*1*) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(*2*) If the offence is under section 228 of the Indian Penal Code, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult. XLV of 1860.

Procedure where Court considers that

482. (*1*) If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or

---

1 The words and figures "subject to the provisions of section 443" rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 28.

2 Ins. by s. 28, *ibid.*

3 The words "whether he is a European British subject or not" rep. by s. 29, *ibid.*

4 Subs. by s. 29, *ibid*, for "s. 443 or s. 444".

presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate.

case should not be dealt with under section 480.

(*2*) The Magistrate, to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

483. When the [1][Provincial Government] so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877[2] shall be deemed to be a Civil Court within the meaning of sections 480 and 482.

When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

484 When any Court has under section 480 [3][or section 482] adjudged an offender to punishment [3][or forwarded him to a Magistrate for trial] for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Discharge of offender on submission or apology.

485. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer, or to produce the document or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

Imprisonment or committal of person refusing to answer or produce document.

486. (*1*) Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal

Appeals from convictions in contempt cases.

1 Subs. by the A. O. for "L. G.".
2 *See* now the Indian Registration Act, 1908 (16 of 1908).
3 Ins. by the Repealing and Amending Act, 1914 (10 of 1914), s. 2 and Sch. I.

to the Court to which decrees or orders made in such Court are ordinarily appealable.

(*2*) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(*3*) An appeal from such conviction by a Court of Small Causes in a presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(*4*) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge, or, in the presidency-towns, to the High Court.

Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.

487. (*1*) Except as provided in sections [1] * * 480 and 485, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court [2] * * *, shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt[3] of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

(*2*) Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

CHAPTER XXXVI.

Of the Maintenance of Wives and Children.

Order for maintenance of wives and children.

488. (*1*) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not

[1] The figures "477" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 130.

[2] The words "and the Recorder of Rangoon" rep. by the Lower Burma Courts Act, 1900 (6 of 1900).

[3] As to trials for contempt of authority of a Criminal Court or Magistrate in British Baluchistan, *see* the British Baluchistan Criminal Justice Regulation, 1896 (8 of 1896), Sch., art. 16.

exceeding [1][one hundred] rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

(*2*) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

Enforcement of order.

(*3*) If any person so ordered [2][fails without sufficient cause] to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made :

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing :

[3][Provided, further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due.]

(*4*) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(*5*) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

(*6*) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases :

Provided that if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte*. Any orders so made may be set aside for good cause shown on application made within three months from the date thereof.

---

1 Subs. by s. 131 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), for "fifty".

2 Subs. by s. 131, *ibid*, for "wilfully neglects".

3 Ins. by s. 131, *ibid*.

(*Chapter XXXVI.—Of the Maintenance of Wives and Children. Chapter XXXVII.—Directions of the Nature of a Habeas Corpus.*)

1* * * * * *

[1][(*7*)] The Court in dealing with applications under this section shall have power to make such order as to costs as may be just.

[1][(*8*)] [2][Proceedings under this section may be taken against any person] in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

Alteration in allowance.

[3][**489.** (*1*)] On proof of a change in the circumstance of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit : Provided that if he increases the allowance the monthly rate of [4][one hundred] rupees in the whole be not exceeded.

[5][(*2*) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.]

Enforcement of order of maintenance.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid ; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A *Habeas Corpus.*

Power to issue directions of the nature of a *habeas corpus.*

491. (*1*) [6][Any High Court] may, whenever it thinks fit, direct—

(*a*) that a person within the limits of its [7][appellate criminal jurisdiction] be brought up before the Court to be dealt with according to law ;

(*b*) that a person illegally or improperly detained in public or private custody within such limits be set at liberty ;

(*c*) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a

---

1 Original sub-section (*7*) was rep., and sub-sections (*8*) and (*9*) were re-numbered (*7*) and (*8*) respectively, by s. 131 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923).

2 Subs. by s. 131, *ibid*, for " The accused may be proceeded against ".

3 S. 489 was re-numbered sub-section (*1*) of that section by s. 132, *ibid.*

4 Subs. by s. 132, *ibid*, for " fifty ".

5 Ins. by s. 132, *ibid.*

6 Subs. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 30, for " Any of the High Courts of Judicature at Fort William, Madras and Bombay ".

7 Subs. by s. 30, *ibid*, for " ordinary original civil jurisdiction ".

witness in any matter pending or to be inquired into in such Court ;

(*d*) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners [1]* * * for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively ;

(*e*) that a prisoner within such limits be removed from one custody to another for the purpose of trial ; and

(*f*) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

(*2*) [2][The High Court] may, from time to time, frame rules to regulate the procedure in cases under this section

(*3*) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818, Madras Regulation II of 1819, or Bombay Regulation XXV of 1827, or the State Prisoners Act, 1850, or the State Prisoners Act. 1858.

III of 1818. XXXIV of 1850. II of 1858.

[3][**491A.** Any High Court established by letters patent may exercise the powers conferred by section 491 in the case of any European British subject within such territories, other than those within the limits of its appellate criminal jurisdiction, as the [4][Central Government] may direct.]

Powers of High Court outside the limits of appellate jurisdiction.

PART IX.
SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

492. (*1*) The [5]* * * * * [6][Provincial Government] may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

Power to appoint Public Prosecutors.

(*2*) [7]* * * The District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below

---

1 The words "acting under the authority of any commission from the G. G. in C." rep. by the A. O.

2 Subs. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 30, for "Each of the said High Courts".

3 S. 491A ins. by s. 31, *ibid.*

4 Subs. by the A. O. for "G. G. in C.".

5 The words "G. G. in C. or the" rep. by the A. O.

6 Subs. by the A. O. for "L. G.".

7 The words "In any case committed for trial to the Court of Session" rep by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 133.

[1][such rank as the [2][Provincial Government] may prescribe in this behalf] to the Public Prosecutor for the purpose of [3][any case].

Public Prosecutor may plead in all Courts in cases under his charge. Pleaders privately instructed to be under his direction.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein, under his directions.

Effect of withdrawal from prosecution.

494. Any Public Prosecutor [4]* * * may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person [5][either generally or in respect of any one or more of the offences for which he is tried] ; and upon such withdrawal,—

(*a*) if it is made before a charge has been framed, the accused shall be discharged [5][in respect of such offence or offences] ;

(*b*) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted [5][in respect of such offence or offences].

Permission to conduct prosecution.

495. (*1*) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below the rank to be prescribed by the [2][Provincial Government] in this behalf [6]* * * *but no person, other than the Advocate General, Standing Council, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the [2][Provincial Government] in this behalf, shall be entitled to do so without such permission.

(*2*) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(*3*) Any person conducting the prosecution may do so personally or by a pleader.

(*4*) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 133, for "the rank of Assistant District Superintendent".

2 Subs. by the A. O. for "L. G.".

3 Subs. by Act 18 of 1923, s. 133, for "such case".

4 The words "appointed by the G. G. in C. or the L. G." rep. by s. 134, *ibid.*

5 Ins. by s. 134, *ibid.*

6 The words "with the previous sanction of the G. G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

CHAPTER XXXIX.

OF BAIL.

In what cases bail to be taken.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail : Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided :

[1][Provided, further, that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (*4*), or section 117, sub-section (*3*).]

When bail may be taken in case of non-bailable offence.

497. (*1*) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable ground for believing that he has been guilty of [2][an offence punishable with death or transportation for life] :

[3][Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail.]

(*2*) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed [4][a non-bailable offence], but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

[3][(*3*) An officer or a Court releasing any person on bail under sub-section (*1*) or sub-section (*2*) shall record in writing his or its reasons for so doing.

(*4*) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody on the execution by him of a bond without sureties for his appearance to hear judgment delivered.]

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 135.

2 Subs. by s. 136, *ibid*, for "the offence of which he is accused".

3 Ins. by s. 136, *ibid*.

4 Subs. by s. 136, *ibid*, for "such offence".

[1][(*5*) A High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.]

Power to direct admission to bail or reduction of bail.

498. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive ; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced.

Bond of accused and sureties.

499. (*1*) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police-officer or Court, as the case may be.

(*2*) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

Discharge from custody.

500. (*1*) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released ; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

(*2*) Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Power to order sufficient bail when that first taken is insufficient.

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

Discharge of sureties

502. (*1*) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(*2*) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(*3*) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be dis-

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 136, for original sub-section (*3*).

(2A) When the witness resides in Burma, the
5 Commission may be issued to any Distrct
Magistrate or Magistrate of the Ist Class
within the local limits of whose jurisdiction
in Burma such witness resides.)

6c (2) When the witness resides in an Indian
State the commission may [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] in,
[illegible] such area.")

6 (" (4) Where the Commission is issued to such Officer
as is mentioned in sub-section(2),hemay, in lieu of
proceeding in the manner laid down in sub-section
(3),-

(a) delegate his powers and duties under the
commission to any officer subordinate to him whose
powers are not less than those of a Magistrate of
the 1st Class in the Provinces or

(b) where the commission is for the examination
of a witness residing in an Indian State,forward it for
execution to the Stae Court,if any, regognised by the
Central Government by notification in the Official
Gazette as a Court to which commission may be forwarded
under this sub-section,within the local limits of
whose jurisdiction the witness resides")

charged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

When attendance of witness may be dispensed with.

503. (*1*) Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

Issue of commission and procedure thereunder.

(*2*) When the witness resides in [1][any Indian State or Tribal area] in which there is an officer representing [2][the Central Government or the Crown Representative], the commission may be issued to such officer.

(*3*) The Magistrate or officer to whom the commission is issued, or if he is the District Magistrate, he, or such Magistrate, of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

(*4*) Where the commission is issued to such officer as is mentioned in sub-section (*2*), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

Commission in case of witness being within Presidency-town.

504. (*1*) If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to [3][such Presidency Magistrate], who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself

[4][(*1A*) When a commission is issued under this section to a Chief Presidency Magistrate, he may delegate his powers and duties under the commission to any Presidency Magistrate subordinate to him.]

---

1 Subs. by the A. O. for "the territories of any Prince or Chief in India".

2 Subs. by the A. O. for "the British Indian Government".

3 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 137, for "the said Presidency Magistrate".

4 Ins. by s. 137, *ibid.*

(*Chapter XL.—Of Commissions for the Examination of Witnesses. Chapter XLI.—Special Rules of Evidence.*)

(*2*) Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the [1]Slave Trade Act, 1876, section 3. 39 & 40 Vict., c. 46.

Parties may examine witnesses.

505. (*1*) The parties to any proceeding under this Code in which a commission is issued, may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, ~~and the Magistrate~~ or officer to whom the commission is directed, [2][or to whom the duty of executing such commission has been delegated] shall examine the witness upon such interrogatories.

(*2*) Any such party may appear before such Magistrate or ~~officer~~ by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

Power of provincial subordinate Magistrate to apply for issue of commission

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application, and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.

Return of commission.

507. (*1*) After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(*2*) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872, may also be received in evidence at any subsequent stage of the case before another Court. I of 18

Adjournment of inquiry or trial.

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

CHAPTER XLI.

SPECIAL RULES OF EVIDENCE.

Deposition of medical witness.

509. (*1*) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken

1 Coll. Stat.

2 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 138.

4/(" and, except in a case to which clause(b) of Sub-section(4) of section 503 applies, the Magistrate";)

4/(" In a case to which clause(b) of sub-section(4) of section 503 applies, the Officer to whom the Commission is issued shall forward such interrogatories to the Court to which he forwards the Commission for execution";)

("except in a case to which clause(b) of sub-section(4) of section 503 applies, before such Officer").

("5/or, in a case to which clause(b) of sub-section (4) of section 503 applies, has been again received by the Officer by whom it was forwarded to the State Court".)

508A.3/ The provision of sub-section(3) of section 503, sub-section(1) and (1A) of section 504 and so much of sections 505 and 507 as relates to the execution of a Commission and its return by the Magistrate or Officer to whom the commission is directed shall apply in respect of commissions issued by a Magistrate or Court in Burma under the Law in force in Burma relating to commissions for the examination of witnesses, as they apply to commissions issued under section 503 Or section 506")

[Application of this Chapter to commissions issued in other cases.]

on commission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

(*2*) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Power to summon Medical witness.

510. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

Report of Chemical Examiner.

511. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force—

Previous conviction or acquittal how proved.

(*a*) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order, or,

(*b*) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered ;

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

512. (*1*) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of evidence in absence of accused.

(*2*) If it appears that an offence punishable with death or transportation has been committed by some person or persons unknown, the High Court may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of ~~British India~~.

Record of evidence when offender unknown.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

Deposit instead of recognizance.

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Procedure on forfeiture of bond.

[1]**514.** (*1*) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

(*2*) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person or his estate if he be dead.

(*3*) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it ; and it shall authorize the [2][attachment] and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

(*4*) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

(*5*) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(*6*) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond [3]* * *.

[4][(*7*) When any person who has furnished security under section 106 or section 118 or section 562 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond

---

1 S. 514 applies to all cases requiring security for good behaviour under the Punjab Frontier Crossing Regulation, 1873 (7 of 1873), s. 6.

2 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 139, for "distress".

3 The words "but the party who gave the bond may be required to find a new surety" rep. by s. 139, *ibid.*

4 Ins. by s. 139, *ibid.*

executed in lieu of his bond under section 514B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.]

Procedure in case of insolvency or death of surety or when a bond is forfeited

[1][**514A**. When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 514, the Court by whose order such bond was taken, or a Presidency Magistrate or Magistrate of the first class, may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and, if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

Bond required from a minor.

514B. When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.]

Appeal from, and revision of, orders under section 514.

515. All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate, shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him

Power to direct levy of amount due on certain recognizances.

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

CHAPTER XLIII.

Of the Disposal of Property.

Order for custody and disposal of property pending trial in certain cases.

[2][**516A**. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.]

Order for disposal of property regarding which offence committed.

517. (*1*) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal [3][by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise] of any property or document produced before it or in its custody or regarding which any offence appears

---

1 Ins. by s. 140 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923).

2 Ins. by s. 141, *ibid.*

3 Ins. by s. 142, *ibid.*

to have been committed, or which has been used for the commission of any offence.

(*2*) When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

[1][(*3*) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (*4*), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.

(*4*) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (*1*) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal.]

Explanation.—In this section the term "property" includes in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Order may take form of reference to District or Sub-divisional Magistrate.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent purchaser of money found on accused.

519. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order under section 517, 518 or 519.

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 142.

(*Chapter XLIII.—Of the Disposal of Property.*)

XLV of 1860. **521.** (*1*) On a conviction under the Indian Penal Code, section 292, section 293, section 501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted. **Destruction of libellous and other matter.**

(*2*) The Court may, in like manner, on a conviction under the Indian Penal Code, section 272, section 273, section 274 or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed. XLV of 1860.

522. (*1*) Whenever a person is convicted of an offence attended by criminal force [1][or show of force or by criminal intimidation] and it appears to the Court that by such force [1][or show of force or criminal intimidation] any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, [1][when convicting such person or at any time within one month from the date of the conviction] order [2][the person dispossessed] to be restored to the possession of the same. **Power to restore possession of immoveable property.**

(*2*) No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

[1][(*3*) An order under this section may be made by any Court of appeal, confirmation, reference or revision.]

523. (*1*) The seizure by any police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property. **Procedure by police upon seizure of property taken under section 51 or stolen.**

(*2*) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation. **Procedure where owner of property seized unknown.**

524. (*1*) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property **Procedure where no claimant appears within six months.**

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 143.

2 Subs. by s. 143, *ibid*, for "such person".

shall be at the disposal of the [1][Provincial Government], and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, or of a Magistrate of the first class empowered by the [2][Provincial Government] in this behalf.

(*2*) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

Power to sell perishable property.

525. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, [3][or if the Magistrate] to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, [4][or that the value of such property is less than ten rupees] the Magistrate may at any time direct it to be sold ; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES.

High Court may transfer case or itself try it.

526. (*1*) Whenever it is made to appear to the High Court :—

(*a*) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(*b*) that some question of law of unusual difficulty is likely to arise, or

(*c*) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(*d*) that an order under this section will tend to the general convenience of the parties or witnesses, or

(*e*) that such an order is expedient for the ends of justice, or is required by any provision of this Code ; it may order—

(*i*) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence ;

(*ii*) that any particular[5*] case or appeal, or class of [6*] cases or appeals, be transferred from a Criminal Court subordinate

---

1 Subs. by the A. O., for "Govt.".

2 Subs. by the A. O., for "L. G.".

3 Subs. by s. 144 of the Code of Criminal Procedure (Amendment) Act, 1923, (18 of 1923), for "or the Magistrate".

4 Ins. by s. 144, *ibid.*

5 The word "criminal" rep. by s. 145, *ibid.*

6 The word "such" rep. by s. 145, *ibid.*

to its authority to any other such Criminal Court of equal or superior jurisdiction ;

(*iii*) that any particular [1]* case or appeal be transferred to and tried before itself ; or

(*iv*) that an accused person be committed for trial to itself or to a Court of Session.

(*2*) When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

(*3*) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

(*4*) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation.

(*5*) When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if [2][so ordered], pay [3][any amount which the High Court [4][may under this section award by way of compensation] to the person opposing the application.]

Notice to Public Prosecutor of application under this section.

(*6*) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made ; and no order shall be made on the merits of the application unless at least twenty four hours have elapsed between the giving of such notice and the hearing of the application.

[5][(*6A*) Where any application for the exercise of the power conferred by this section is dismissed, the High Court may if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of [6][compensation] to any person who has opposed the application [7][such sum not exceeding two hundred and fifty rupees as it may consider proper in the circumstances of the case].]

(*7*) Nothing in this section shall be deemed to affect any order made under section 197.

Adjournment on application under this section.

[8][(*8*) If in any inquiry under Chapter VIII or Chapter XVIII or any trial, any party interested intimates to the Court at any stage before

1 The word "criminal" rep. by s. 145 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923).

2 Subs. by s. 145, *ibid*, for "convicted".

3 Subs. by s. 145, *ibid*, for "the costs of the prosecutor".

4 Subs. by the Code of Criminal Procedure (Amendment) Act, 1932 (21 of 1932), s. 2, for "has power under this section to award by way of costs".

5 Ins. by Act 18 of 1923, s. 145.

6 Subs. by Act 21 of 1932, s. 2, for "costs".

7 Subs. by s. 2, *ibid*, for "any expenses reasonably incurred by such person in consequence of the application".

8 Subs. by s. 2, *ibid*, for original sub-section (*8*).

the defence closes its case that he intends to make an application under this section, the Court shall, upon his executing, if so required, a bond without sureties, of an amount not exceeding two hundred rupees, that he will make such application within a reasonable time to be fixed by the Court, adjourn the case for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon :

Provided that nothing herein contained shall require the Court to adjourn the case upon a second or subsequent intimation from the same party, or, where an adjournment under this sub-section has already been obtained by one of several accused, upon a subsequent intimation by any other accused.]

[1][(*9*) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (*8*) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it.]

[2][*Explanation.*—Nothing contained in sub-section (*8*) or sub-section (*9*) restricts the powers of a Court under section 344.

(*10*) If, before the argument (if any) for the admission of an appeal begins, or, in the case of an appeal admitted, before the argument for the appellant begins, any party interested intimates to the Court that he intends to make an application under this section, the Court shall, upon such party executing, if so required, a bond without sureties of an amount not exceeding two hundred rupees that he will make such application within a reasonable time to be fixed by the Court, postpone the appeal for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon.]

High Court to transfer for trial to itself in certain cases.

[3][**526A.** (*1*) Where any person subject to the [4]Naval Discipline Act [5][(other than a person to whom that Act applies by virtue of the Indian Navy (Discipline) Act, 1934)] or to the [4]Army Act or to the Air Force Act is accused of any offence such as is referred to in proviso (*a*) to section 41 of the Army Act, the Advocate General shall, if so instructed by the competent authority, apply to the High Court for the committal or transfer of the case to that High Court and thereupon the High Court shall order that the case be committed for trial to or be transferred to itself and shall thereafter proceed to try the case by jury.

29 & 30 Vict., c. 109.
44 & 45 Vict., c. 58.
7 & 8 Geo. 5, c. 51.

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 145, for original sub-sec. (*9*).

2 Ins. by the Code of Criminal Procedure (Amendment) Act, 1932 (21 of 1932), s. 2.

3 Ins. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 32.

4 Coll. Stat.

5 Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

("(A) At any time before the trial of the case or the hearing of the appeal has commenced before the Additional Sessions Judge, any Sessions Judge may recall any case or appeal which he has made over to any Additional Sessions Judge.

(1B) Whrere a Sessions Judge withdraws or recalls a case under sub-section(1) or recalls a case or appeal under sub-section (1A), he may either try the case in his own Court or hear the appeal himself, ormake it over in accordance with the provision of this Code to another Court for trial or hearing, as the case may be.")

(*Chapter XLIV.—Of the Transfer of Criminal Cases.*)

(*2*) The [1][Central Government] may, by notification in the [2][Official Gazette], declare any officer to be the competent authority for the purpose of issuing instructions under sub-section (*1*) in regard to any class of cases specified in the notification.]

527. (*1*) The [1][Provincial Government] may, by notification in the [2][Official Gazette], direct the transfer of any particular[3] *case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court, to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to ~~him~~ that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses :

Power of Provincial Government to transfer cases and appeals.

[4][Provided that no case or appeal shall be transferred to a High Court or other Court in another Province without the consent of the Provincial Government of that Province.]

(*2*) The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

528. [5][(*1*) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Assistant Sessions Judge subordinate to him.]

Sessions Judge may withdraw cases from Assistant Sessions Judge.

[6][(*2*)]Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

District or Sub-divisional Magistrate may withdraw or refer cases.

[6][(*3*)] The [7][Provincial Government] may authorize the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

Power to authorize District Magistrate to withdraw classes of cases.

[5][(*4*) Any Magistrate may recall any case made over by him under section 192, sub-section (*2*), to any other Magistrate and may inquire into or try such case himself.]

[6][(*5*)] A Magistrate making an order under this section shall record in writing his reasons for making the same.

---

1 Subs. by the A. O. for "G. G. in C.".

2 Subs. by the A. O. for "Gazette of India".

3 The word "criminal" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 146.

3a Orders by A.O. for him

4 Ins. by the A. O.

5 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 147.

6 Original sub-sections (1), (2) and (3) were re-numbered (2), (3) and (5), respectively, by s. 147, *ibid.*

7 Subs. by the A. O. for "L. G.".

(*Chapter XLIV.—Of the Transfer of Criminal Cases. Chapter XLIVA.—Supplementary provisions relating to European and Indian British subjects and others.*)

[1][(*6*) The head of a village under the Madras Village-police Regulation, 1816, or the Madras Village-police Regulation, 1821, is a Magistrate for the purposes of this section.] XI of 1816. IV of 1821.

---

[2][CHAPTER XLIVA.

SUPPLEMENTARY PROVISIONS RELATING TO EUROPEAN AND INDIAN BRITISH SUBJECTS AND OTHERS.

Procedure of claim of a person to be dealt with as European or Indian British subject, or as European or American.

528A. (*1*) Where, in any case to which the provisions of Chapter XXXIII do not apply, any person claims to be dealt with as an European or Indian British subject, or where any person claims to be dealt with as an European (other than an European British subject) or an American, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purpose of the inquiry or trial ; and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall deal with him accordingly.

(*2*) When any such claim is rejected by the Magistrate and the person by whom it was made is committed by the Magistrate for trial before the Court of Session, and such person repeats the claim before such Court, such Court shall, after such further inquiry, if any, as it thinks fit, decide the claim, and shall deal with such person accordingly.

(*3*) When any Court before which any person is tried rejects any such claim as aforesaid the decision shall form a ground of appeal from the sentence or order passed in such trial.

Failure to plead status a waiver.

528B. If in any such case an European or Indian British subject or an European (other than an European British subject) or an American does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before and rejected by the committing Magistrate, it is not repeated before the Court to which such person is committed, he shall be held to have relinquished his right to be dealt with as an European British subject or an Indian British subject, or an European or an American as the case may be, and shall not assert it in any subsequent stage of the case.

Trial of person as belonging

528C. Where a person, not being an European British subject, is dealt with as an European British subject or, not being an Indian British

---

1 Subs. for original sub-section (*4*) after it was re-numbered as sub-section (*6*) by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 147.

2 Chapter XLIVA ins. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 33.

(*Chapter XLIVA.—Supplementary provisions relating to European and Indian British subjects and others. Chapter XLV.—Of Irregular Proceedings.*)

subject, is dealt with as an Indian British subject or, not being an European (other than an European British subject) or American, is dealt with as an European or American, and such person does not object, the inquiry, commitment, trial, or sentence, as the case may be, shall not, by reason of such dealing, be invalid.

to class to which he does not belong.

528D. (*1*) Unless there is something repugnant in the context, all enactments made by [1][the Central Legislature] which confer on Magistrates or on the Court of Session jurisdiction over offences shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

Application of Acts conferring jurisdiction on Magistrates or Courts of Session.

(*2*) Nothing in this section shall be deemed to authorise any Court to exceed the limits prescribed by this Code as to the amount of punishment which it may inflict on an European British subject or to confer jurisdiction on any Magistrate of the second or third class for the trial of such subjects.]

CHAPTER XLV.

Of Irregular Proceedings.

529. If any Magistrate not empowered by law to do any of the following things, namely :—

Irregularities which do not vitiate proceedings.

(*a*) to issue a search-warrant under section 98 ;

(*b*) to order, under section 155, the police to investigate an offence ;

(*c*) to hold an inquest under section 176 ;

(*d*) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits ;

(*e*) to take cognizance of an offence under section 190, sub-section (*1*), clause (*a*) or clause (*b*) ;

(*f*) to transfer a case under section 192 ;

(*g*) to tender a pardon under section 337 or section 338 ;

(*h*) to sell property under section 524 or section 525 ; or

(*i*) to withdraw a case and try it himself under section 528 ;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely :—

Irregularities which vitiate proceedings.

(*a*) attaches and sells property under section 88 ;

---

1 Subs. by the A. O. for "the G. G. in C. or the Indian Legislature".

(*b*) issues a search-warrant for a letter, parcel or other thing in the Post Office, or a telegram in the Telegraph Department ;

(*c*) demands security to keep the peace ;

(*d*) demands security for good behaviour ,

(*e*) discharges a person lawfully bound to be of good behaviour ;

(*f*) cancels a bond to keep the peace ;

(*g*) makes an order under section 133 as to a local nuisance ;

(*h*) prohibits, under section 143, the repetition or continuance of a public nuisance ;

(*i*) issues an order under section 144 ;

(*j*) makes an order under Chapter XII ;

(*k*) takes cognizance, under section 190, sub-section (*1*), clause (*c*), of an offence ;

(*l*) passes a sentence, under section 349, on proceedings recorded by another Magistrate ;

(*m*) calls, under section 435, for proceedings ;

(*n*) makes an order for maintenance ;

(*o*) revises, under section 515, an order passed under section 514 ;

(*p*) tries an offender ;

(*q*) tries an offender summarily ; or

(*r*) decides an appeal ;

his proceedings shall be void.

Proceedings in wrong place.

531. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

When irregular commitments may be validated.

532. (*1*) If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

(*2*) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

Non-compliance with provisions of

533. (*1*) If any Court, before which a confession or other statement of an accused person recorded or purporting to be recorded under section

164 or section 364 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded ; and, notwithstanding anything contained in the Indian Evidence Act, 1872, section 91, such statement shall be admitted if the error has not injured the accused as to his defence on the merits.

section 164 or 364.

I of 1872.

(*2*) The provisions of this section apply to Courts of Appeal, Reference and Revision.

[1][**534.** An omission to inform under section 447 any person of his rights under Chapter XXXIII shall not affect the validity of any proceeding.]

Omission to give information under section 447.

535. (*1*) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

Effect of omission to prepare charge.

(*2*) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

536. (*1*) If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

Trial by jury of offence triable with assessors.

(*2*) If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

Trial with assessors of offence triable by jury.

537. [2]Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account—

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

(*a*) of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or

[3]* * * * * *

(*c*) of the omission to revise any list of jurors or assessors in accordance with section 324, or

---

1 Subs. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 34, for original s. 534.

2 In British Baluchistan and in the Sonthal Parganas, orders are not reversible on appeal or revision on technical grounds alone—*see* respectively the British Baluchistan Criminal Justice Regulation, 1896 (8 of 1896), Sch., art. 19, and s. 4 (VII) of the Sonthal Parganas Justice Regulation, 1893 (5 of 1893).

3 Clause (*b*) rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 148.

(*d*) of any misdirection in any charge to a jury unless such error, omission, irregularity, [1]* or misdirection has in fact occasioned a failure of justice.

Explanation.—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

[2]* * * * * *

Attachment not illegal, person making same not trespasser for defect or want of form in proceedings.

538. No [3][attachment] made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of [3][attachment] or other proceedings relating thereto.

CHAPTER XLVI.

MISCELLANEOUS.

Courts and persons before whom affidavits may be sworn.

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in ~~British India~~, or any Commissioner to administer oaths in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

Affidavit in proof of conduct of public servant.

[4][**539A.** (*1*) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

An affidavit to be used before any Court other than a High Court under this section may be sworn or affirmed in the manner prescribed in section 539, or before any Magistrate.

Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable grounds to believe to be true, and, in the latter case, the deponent shall clearly state the grounds of such belief.

(*2*) The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended.]

---

1 The word "want" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 148.

2 The *Illustration* rep. by s. 148, *ibid.*

3 Subs. by s. 149, *ibid*, for "distress".

4 Ins. by s. 150, *ibid.*

[1][**539B.** (*1*) Any Judge or Magistrate may at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection. Local inspection.

(*2*) Such memorandum shall form part of the record of the case. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost :

Provided that, in the case of a trial by jury or with the aid of assessors, the Judge shall not act under this section unless such jury or assessors are also allowed a view under section 293.]

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined ; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case. Power to summon material witness or examine person present.

[2][**540A.** (*1*) At any stage of an inquiry or trial under this Code, where two or more accused are before the Court, if the Judge or Magistrate is satisfied, for reasons to be recorded, that any one or more of such accused is or are incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused. Provision for inquiries and trial being held in the absence of accused in certain cases.

(*2*) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.]

541. (*1*) Unless when otherwise provided by any law for the time being in force, the [3][Provincial Government] may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined. Power to appoint place of imprisonment.

(*2*) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail. Removal to criminal jail of accused or convicted persons who are in confinement.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 150.

2 Ins. by s. 151, *ibid.*

3 Subs. by the A. O. for "L. G.".

in civil jail, and their return to the civil jail.

(*3*) When a person is removed to a criminal jail under [1][sub-section (*2*)], he shall, on being released therefrom, be sent back to the civil jail, unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure[2] ; or XIV of 1882.

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.[2] XIV of 1882.

Power of Presidency Magistrate to order prisoner in jail to be brought up for examination.

542. (*1*) Notwithstanding anything contained in the Prisoners' Testimony Act, 1869,[3] any Presidency Magistrate desirous of examining, XV of 1869. as a witness or an accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

(*2*) The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid

Interpreter to be bound to interpret truthfully.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence of statement, he shall be bound to state the true interpretation of such evidence or statement.

Expenses of complainants and witnesses.

544. Subject to any rules[4] made by the [5][Provincial Government], [6]* * * any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code

Power of Court to pay expenses or compensation out of fine.

545 (*1*) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(*a*) in defraying expenses properly incurred in the prosecution ;

---

1 Subs. for "sub-section (*1*)" by the Repealing and Amending Act, 1924 (7 of 1924), s. 2 and Sch. I.

2 *See* now the Code of Civil Procedure, 1908 (5 of 1908), s. 58 and the Provincial Insolvency Act, 1920 (5 of 1920), s. 27.

3 *See* now the Prisoners Act, 1900 (3 of 1900).

4 For rules, see the different local Rules and Orders.

5 Subs. by the A. O. for "L. G.".

6 The words "with the previous sanction of the G. G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[1][(*b*) in the payment to any person of compensation for any loss or injury caused by the offence, when substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court] ;

[2][(*c*) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bona fide* purchaser, of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.]

(*2*) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

546 At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 545.

Payments to be taken into account in subsequent suit.

[3][**546A.** (*1*) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may in addition to the penalty imposed upon him, order him to pay to the complainant—

Order of payment of certain fees paid by complainant in non-cognizable cases.

(*a*) the fee (if any) paid on the petition of complaint or for the examination of the complainant, and

(*b*) any fees paid by the complainant for serving processes on his witnesses or on the accused,

and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(*2*) An order under this section may also be made by an Appellate Court, or by the High Court, when exercising its powers of revision.]

547. Any money (other than a fine) payable by virtue of any order made under this Code, [4][and the method of recovery of which is not otherwise expressly provided for] shall be recoverable as if it were a fine.

Moneys ordered to be paid recoverable as fines.

548. If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury

Copies of proceedings.

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 152, for original cl. (*b*).
2 Ins. by s. 152, *ibid.*
3 Ins. by s. 153, *ibid.*
4 Ins. by s. 154, *ibid.*

or of any order or deposition or other part of the record he shall, on applying for such copy, be furnished therewith :

Provided that he pays for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

Delivery to military authorities of persons liable to be tried by Court-martial.

549. (*1*) The [1][Central Government] may make rules consistent with this Code and the [2][Army Act [3][, the Naval Discipline Act and that Act as modified by the Indian Navy (Discipline) Act, 1934,] and the Air Force Act and] any similar law for the time being in force as to the cases in which persons subject to [4][military [3][, naval] or air force law], shall be tried by a Court to which this Code applies, or by Court-martial, and when any person is brought before a Magistrate and charged with an offence for which he is liable, [5][to be tried either by a Court to which this Code applies or by a Court-martial], such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps, [3][ship] or detachment, to which he belongs, or to the commanding officer of the nearest [6][military [3][, naval] or air-force station, as the case may be], for the purpose of being tried by Court-martial. 44 & 45 Vict. c. 58 & 29 & 30 Vict., c. 109.

Apprehension of such persons.

(*2*) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of [7][soldiers, sailors or airmen] stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Powers to Police to seize property suspected to be stolen.

550. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

Powers of superior officers of police.

551. Police-officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

---

1 Subs. by the A. O. for "G. G. in C.".

2 Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "Army Act or ".

3 Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

4 Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "military law ".

5 Subs. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch., for "under the Army Act, section 41, or under the Air Force Act, section 41, to be tried by a Court-martial ".

6 Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "military station ".

7 Subs. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch., for "troops ".

(within the meaning of the Government of India Act,1935 ,other than the Chief Court of Oudh)

552. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of [1][sixteen] years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Power to compel restoration of abducted females.

553. (*1*) Whenever any person causes a police-officer to arrest another person in a presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

Compensation to persons groundlessly given in charge in presidency-town.

(*2*) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

(*3*) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

554. (*1*) [2][With the previous sanction of the Provincial Government, any High Court] ~~established by Royal Charter~~, may, from time to time, make rules for the inspection of the records of subordinate Courts.

Power of chartered High Courts to make rules for inspection of records of subordinate courts.

(*2*) Every High Court ~~not established by Royal Charter~~ may, from time to time, and with the previous sanction of the [3][Provincial Government],—

Power of other High Courts to make rules for other purposes.

(*a*) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts ;

---

1 Subs. by the Indian Criminal Law Amendment Act, 1924 (18 of 1924), s. 5, for "fourteen".

2 Subs. by the A. O. for "With the previous sanction of the G. G. in C., the High Court at Fort William, and, with the previous sanction of the L. G., any other High Court".

3 Subs. by the A. O. for "L. G.".

(*b*) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided ;

(*c*) make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it ; and

(*d*) make rules for regulating the execution of warrants issued under this Code for the levy of fines :

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(*3*) All rules made under this section shall be published in the [1][Official Gazette].

Forms.

555. Subject to the power conferred by section [2][554], and by [3][section 224 of the Government of India Act, 1935], the forms set forth in the fifth schedule, with such variation as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient. 26 Geo. 5 c. 2.

Case in which Judge or Magistrate is personally interested.

556. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed a party, or personally interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner or otherwise concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

---

1 Subs. by the A. O. for "local official Gazette".

2 Subs. by the Amending Act, 1903 (1 of 1903), for "553".

3 Subs. by the A. O. for "section 107 of the G. of I. Act, 1915" which were subs. by the Amending Act, 1916 (13 of 1916), s. 2 and Sch. for "s. 15 of the Indian High Courts Act, 1861".

Illustration.

A, as Collector, upon consideration of information furnished to him, directs the prosecution of B for a breach of the Excise Laws. A is disqualified from trying this case as a Magistrate.

557. No pleader who practises in the Court of any Magistrate in a presidency-town or district, shall sit as a Magistrate in such Court or in any Court within the jurisdiction of such Court.

Practising pleader not to sit as Magistrate in certain Courts.

558. The [1][Provincial Government] may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered by such Government, other than [2][the Courts which are High Courts for the purposes of the Government of India Act, 1935].

Power to decide language of Courts.

26 Geo. 5, c. 2.

[3][**559.** (*1*) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

Provision for powers of Judges and Magistrates being exercised by their successors in office.

(*2*) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(*3*) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge.]

560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

Officers concerned in sales not to purchase or bid for property

561. (*1*) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall—

Special provisions with respect to offence of rape by a husband.

(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(*b*) commit the man for trial for the offence.

---

1 Subs. by the A. O. for "L. G.".

2 Subs. by the A. O. for "the High Courts established by Royal Charter".

3 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 155, for original s. 559.

(*2*) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a police-officer, with respect to such an offence as is referred to in sub-section (*1*), no police officer of a rank below that of police-inspector shall be employed either to make, or to take part in, the investigation.

Saving of inherent power of High Court.

[1][**561A.** Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.]

First Offenders.

Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.

[2][**562.** (*1*) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour :

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the [3][Provincial Government] in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or Sub-divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

Conviction and release with admonition.

[4][(*1A*) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 156.

2 Subs. by s. 157, *ibid*, for original s. 562.

1937

3 Subs. by the A. O. for "L. G.".

4 Ins. by the Code of Criminal Procedure (Second Amendment) Act, 1923 (37 of 1923), s. 4.

XLV of 1860. Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.]

(*2*) An order under this section may be made by any Appellate Court or by the High Court when exercising its power of revision.

(*3*) When an order has been made under this section in respect of any offender, the High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law :

Provided that the High Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(*4*) The provisions of sections 122, 126A and 406A shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.]

Provision in case of offender failing to observe conditions of his recognizances.

563. (*1*) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(*2*) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence Such Court may, after hearing the case, pass sentence.

Conditions as to abode of offender.

564. (*1*) The Court, before directing the release of an offender under section 562, [1][sub-section (*1*)], shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(*2*) Nothing in this section or in sections 562 and 563 shall affect the VIII of 1897. provisions of section 31 of the Reformatory Schools Act, 1897.

---

1 Ins. by the Repealing and Amending Act, 1924 (7 of 1924), s. 2 and Sch. I.

(*Chapter XLVI.—Miscellaneous.*)

Previously convicted offenders.

Order for notifying address of previously convicted offender.

[1][565. (*1*) When any person having been convicted—

(*a*) by a Court in ~~British India~~ of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years or upwards, or XLV of 1860.

(*b*) by a Court or Tribunal in [2][any Indian State acting under the general or special authority of the Central Government or of the Crown Representative], of any offence which would, if committed in ~~British India~~, have been punishable under any of the aforesaid sections or Chapters of the Indian Penal Code with like imprisonment for a like term, XLV of 1860.

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(*2*) If such conviction is set aside on appeal or otherwise, such order shall become void.

(*3*) The [3][Provincial Government] may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts.

(*4*) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(*5*) Any person against whom an order has been made under this section and who refuses or neglects to comply with any rule so made shall be deemed within the meaning of section 176 of the Indian Penal Code to have omitted to give a notice required for the purpose of preventing the commission of an offence. XLV of 1860

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 158, for the original s. 565.

2 Subs. by the A. O. for "the territories of any Prince or State in India acting under the general or special authority of the G. G. in C., or of any L. G.".

3 Subs. by the A. O. for "L. G.".

(6) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated]

SCHEDULE I—[*Enactments repealed.*] *Rep. by the Repealing and Amending Act, 1914* (*X of 1914*), *s. 3 and Sch. II.*

SCHEDULE II.

Tabular Statement of Offences.

Explanatory Note.—The entries in the second and seventh columns of this schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code", are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

The third column of this schedule applies also to the police in the towns of Calcutta and Bombay.

Chapter V.—Abetment.

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.

(Schedule II.—Tabular Statement of Offences. Chapter V.—Abetment.)

110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	The same punishment as for the offence intended to be abetted.	Ditto.
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	The same punishment as for the offence committed.	Ditto.
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
115	Abetment of an offence, punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto ..	Ditto ..	Not bailable	Ditto ..	Imprisonment of either description for 7 years and fine.	Ditto.

SCHEDULE II—*contd.*

CHAPTER V.—ABETMENT—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
115 —*contd.*	If an act which causes harm be done in consequence of the abetment.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	Not bailable.	According as the offence abetted is compoundable or not.	Imprisonment of either description for 14 years and fine.	The Court by which the offence abetted is triable.
116	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto ..	Ditto ..	According as the offence abetted is bailable or not.	Ditto ..	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment extending to half of the longest term, and of any description, provided	Ditto.

						for the offence, or fine, or both.	
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto ..	Ditto ...	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed.	Ditto ..	Ditto ..	[1][Bailable]	Ditto ..	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto ..	Ditto ..	According as the offence abetted is bailable or not.	Ditto ..	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation for life.	Ditto ..	Ditto ..	Not bailable.	Ditto ...	Imprisonment of either description for 10 years.	Ditto.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159.

SCHEDULE II—*contd.*

CHAPTER V.—ABETMENT—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
119 —*contd.*	If the offence be not committed.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	[1][Bailable]	According as the offence abetted is compoundable or not.	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence abetted is triable.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto ..	Ditto ..	[1][According as the offence concealed is bailable or not.]	Ditto ..	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.

	If the offence be not committed.	Ditto ..	Ditto ..	[1][Bailable]	Ditto ..	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	[2][CHAPTER VA.—CRIMINAL CONSPIRACY.						
120B	Criminal conspiracy to commit an offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards.	May arrest without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence which is the object of the conspiracy.	According as the offence which is the object of the conspiracy is bailable or not.	Not compoundable.	The same punishment as that provided for the abetment of the offence which is the object of the conspiracy.	Court of Session when the offence which is the object of the conspiracy is triable exclusively by such Court: in the case of all other offences Court of Session, Presidency Magistrate or Magistrate of the first class.
	Any other criminal conspiracy.	Shall not arrest without a warrant.	Summons ..	Bailable ..	Ditto ..	Imprisonment of either description for six months or fine, or both.	Presidency Magistrate or Magistrate of the first class.]

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159.

[2] Ins. by the Indian Criminal Law Amendment Act, 1913 (8 of 1913), s. 6 and Sch.

SCHEDULE II—*contd.*

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Death, or transportation for life, and [1][fine].	Court of Session.
121A	Conspiring to commit certain offences against the State.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life or any shorter term, or imprisonment of either description for 10 years [2][and fine].	Ditto.
122	Collecting arms, etc., with the intention of waging war against the Queen.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 10 years and [1][fine].	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.

124	Assaulting Governor General, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
124A	Sedition	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the first class specially empowered by the [3][Provincial Government] in that behalf.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Court of Session.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.

[1] Subs. for "forfeiture of property" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159.

[2] Ins. by s. 159, *ibid.*

[3] Subs. by the A. O. 1937 for "L. G."

SCHEDULE II—*contd.*

CHAPTER VI.—OFFENCES AGAINST THE STATE—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Shall not arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Court of Session.
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Ditto ..	Ditto ..	Bailable ..	Ditto ..	Simple imprisonment for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chapter VI.—Offences against the State. Chapter VII.—Offences relating to the Army and Navy.)

130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
	CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.						
131	Abetting mutiny, or attempting to seduce an officer, soldier, [1][sailor or airman] from his allegiance or duty.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Death, or transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
133	Abetment of an assault by an officer, soldier, [1][sailor or airman] on his superior officer, when in the execution of his office.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1]Subs. for " or sailor " by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

SCHEDULE II—*contd.*

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant ..	Not bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier, [1][sailor or airman].	Ditto ..	Ditto ..	Bailable ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
136	Harbouring such an officer, soldier [1][sailor or airman], who has deserted.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons ..	Ditto ..	Ditto ..	Fine of 500 rupees	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter VII.—Offences relating to the Army and Navy. Chapter VIII.—Offences against the Public Tranquillity.)

138	Abetment of act of insubordination by an officer, soldier, [1][sailor or airman] if the offence be committed in consequence.	May arrest without warrant.	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, [2][sailor or airman] with intent that it may be believed that he is such a soldier, [2][sailor or airman].	Ditto ..	Summons ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly.	May arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto ..	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

[1] Subs. for "or sailor" by the Repealing and Amending Act, 1927 (10 of 1927), s 2 and Sch. I

[2] Ins., *ibid.*

SCHEDULE II—*contd.*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	May arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
147	Rioting	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
148	Rioting, armed with a deadly weapon.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chapter VIII.—Offences against the Public Tranquillity.)

149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Ditto ..	The same as for the offence.	The Court by which the offence is triable.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.	Ditto ..	Ditto ..	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto ..	Summons ..	Bailable ..	Ditto ..	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, etc.	Ditto ..	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*contd.*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed ..	Ditto ..	Summons ..	Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
153A	Promoting enmity between classes.	Shall not arrest without warrant.	Warrant ..	Not bailable.	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
154	Owner or occupier of land not giving information of riot, etc.	Ditto ..	Summons ..	Bailable ..	Ditto ..	Fine of 1,000 rupees.	Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chapter VIII.—Offences against the Public Tranquillity.)

155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.	Ditto.
[1] *	Or to go armed ..	Ditto ..	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray..	Shall not arrest without warrant.	Summons ..	Ditto ..	Ditto ..	Imprisonment of either description for one month, or fine of 100 rupees, or both.	Any Magistrate.

[1] The figures "159" rep. by the Repealing and Amending Act, 1925 (37 of 1925), s. 3 and Sch. II.

SCHEDULE II—*contd.*

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chapter IX.—Offences by or relating to Public Servants.)

164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
168	Public servant unlawfully engaging in trade.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*contd.*

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
169	Public servant unlawfully buying or bidding for property.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Presidency Magistrate or Magistrate of the first class.
170	Personating a public servant.	May arrest without warrant.	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ..	Summons ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter IXA.—Offences relating to Elections. Chapter X.—Contempts of the Lawful Authority of Public Servants.*)

[1][Chapter IXA.—Offences relating to elections.

171E	Bribery ..	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for one year, or fine, or both or if treating only, fine only.	Presidency Magistrate or Magistrate of the first class.
[2]171F	Undue influence and personation at an election.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for one year, or fine, or both.	Ditto.
171G	False statement in connection with an election.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Fine	Ditto.
171H	Illegal payments in connection with elections.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Fine of 500 rupees	Ditto.
171I	Failure to keep election accounts.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.]

Chapter X.—Contempts of the Lawful Authority of Public Servants.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.

[1] Ins. by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 3.

[2] This item has been amended in its application to the C. P. by the Code of Criminal Procedure (C. P. Amendment) Act, 1936 (C. P. 19 of 1936), s. 3.

(*Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the Lawful Authority of Public Servants.*)

SCHEDULE II—*contd.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
172—*contd.*	If summons or notice require attendance in person, etc., in a Court of Justice.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Any Magistrate.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, etc., in a Court of Justice.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto ...	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

SCHEDULE II—*contd.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If the notice or information required respects the commission of an offence, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
		Ditto	Ditto	Ditto	Ditto		
177	Knowingly furnishing false information to a public servant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the Lawful Authority of Public Servants.)

	If the information required respects the commission of an offence, etc.	Ditto ..	Ditto ..	Ditto	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto. ..	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto ..	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

If the notice or information is required by an order passed under sub-section(1) of section 565 of this Code")

("Imprisonment of either description for six months or fine of 1,000 rupees, or both")

(Schedule II.—Tabular Statement of Offences. Chapter X.—Contempts of the Lawful Authority of Public Servants.)

SCHEDULE II—*contd.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.

185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

SCHEDULE II—*contd.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
188—*contd.*	If such disobedience causes danger to human life, health or safety, etc.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Giving or fabricating false evidence in any other case.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
	If innocent person be thereby convicted and executed.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Death, or as above	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation for life or with imprisonment for 7 years or upwards.	Ditto ..	Ditto ..	[1][Not bailable.]	Ditto .	The same as for the offence.	Ditto.

[1] Subs. by the Amending Act, 1903 (I of 1903), s. 3 and Sch. II, Part II, for "Bailable".

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Shall not arrest without warrant.	Warrant ..	According as the offence of giving such evidence is bailable or not.	Not compoundable.	The same as for giving or fabricating false evidence.	Court of Session, Presidency Magistrate or Magistrate of the first class.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto ..	Ditto .	Bailable ..	Ditto ..	The same as for giving false evidence.	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

199	False statement made in any declaration which is by law receivable as evidence.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto ..	Ditto .	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life or imprisonment for 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with less than 10 years' imprisonment.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

(*Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.*)

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
203	Giving false information respecting an offence committed.	Ditto ..	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Presidency Magistrate or Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(*Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.*)

206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Presidency Magistrate or Magistrate of the first class.
209	False claim in a Court of Justice.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
211	False charge of offence made with intent to injure.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
	If offence charged be punishable with imprisonment for 7 years or upwards.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If offence charged be capital, or punishable with transportation for life.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Court of Session.

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Ditto.
	If punishable with imprisonment for 1 year and not for 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
213	Taking gift, etc., to screen an offender from punishment, if the offence be capital.	[1][May arrest without warrant.]	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

[1]Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
214	Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	[1][Shall not arrest without warrant.]	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

(*Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.*)

215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	[1][May arrest without warrant.]	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, with or without fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
216A	Harbouring robbers or dacoits.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Rigorous imprisonment for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1]Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto ..	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding corruptly making and pronouncing	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, or fine or both.	Ditto.

	an order, report, verdict or decision which he knows to be contrary to law.						
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death.	Ditto ..	Ditto ..	Not bailable	Ditto ..	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
222 —*contd.*	If under sentence of transportation or penal servitude for life, or transportation, imprisonment or penal servitude for 10 years or upwards.	Shall not arrest without warrant.	Warrant ..	Not bailable	Not compoundable.	Imprisonment of either description for 7 years, with or without fine.	Court of Session.
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Ditto ..	Ditto ..	Bailable ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
223	Escape from confinement negligently suffered by a public servant.	Ditto ..	Summons ..	Ditto ..	Ditto ..	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chapter XI.—False Evidence and Offences against Public Justice.)

224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant ...	Ditto ...	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto ..	Ditto ..	Not bailable	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If charged with a capital offence.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.	Ditto.
	If under sentence of death.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
225A	Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for—						
	(*a*) in case of intentional omission or sufferance ;	Shall not arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	(*b*) in case of negligent omission or sufferance.	Ditto ..	Summons ..	Ditto ..	Ditto ..	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
225B	Resistance or obstruction to lawful	May arrest without warrant.	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description.	Ditto.

	apprehension, or escape or rescue in cases not otherwise provided for.					for 6 months, or fine, or both.	
226	Unlawful return from transportation.	Ditto ..	Ditto ..	Not bailable	Ditto ..	Transportation for life, and fine, and rigorous imprisonment for 3 years before transportation.	Court of Session.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons ..	Ditto ..	Ditto ..	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ..	Ditto ..	Bailable ..	Ditto ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV.
229	Personation of a juror or assessor.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.

SCHEDULE II—*contd.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session.
235	Possession of instrument or material	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description	Court of Session, Presidency Magis-

(Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps.)

	for the purpose of using the same for counterfeiting coin.					for 3 years, and fine.	trate or Magistrate of the first class.
	If Queen's coin ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Court of Session.
236	Abetting in British India the counterfeiting out of British India of coin.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life or imprisonment of either description for 10 years, and fine.	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*contd.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
240	The same with respect to the Queen's coin.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences Chapter XII.—Offences relating to Coin and Government Stamps.)

243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Ditto.

SCHEDULE II—*contd.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 5 years, and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto ..	Ditto .	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps.)

	altered when he became possessed thereof.					fine.	
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 5 years, and fine.	Ditto.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Presidency Magistrate or Magistrate of the first or second class.
255	Counterfeiting a Government stamp.	Ditto ..	Ditto ..	Bailable ..	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps.*)

SCHEDULE II—*contd.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
258	Sale of counterfeit Government stamp.	May arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
259	Having possession of a counterfeit Government stamp.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Court of Session, Presidency Magistrate or Magistrate of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a do-	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps. Chapter XIII.—Offences relating to Weights and Measures.)

	cument a stamp used for it with intent to cause loss to Government.						
262	Using a Government stamp known to have been before used.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto ..	Ditto ..	Ditto ..	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
263A	Fictitious stamps ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Fine of 200 rupees	Presidency Magistrate or Magistrate of the first class.
	CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.						
264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
265	Fraudulent use of false weight or measure.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XIII.—Offences relating to Weights and Measures. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.*)

SCHEDULE II—*contd.*

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
267	Making or selling false weights or measures for fraudulent use.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for one year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
	CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.						
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink, knowing the same to be noxious.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

SCHEDULE II—*contd.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	May arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Presidency Magistrate or Magistrate of the first

(*Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.*)

	endanger human life, etc.						or second class.
281	Exhibition of a false light, mark or buoy.	Ditto ..	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ..	Summons ..	Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance, so as to endanger human life, etc.	Shall not arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	May arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Any Magistrate.
286	So dealing with any explosive substance.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

SCHEDULE II—*contd.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
287	So dealing with any machinery.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
289	A person omitting to take order with any animal in his possession, so as to	May arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Any Magistrate.

(Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

	guard against danger to human life, or of grievous hurt, from such animal.						
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for 6 months, or fine, or both.	Presidency Magistrate, or Magistrate of the first or second class.
292	Sale, etc., of obscene books, etc.	Ditto ..	Warrant ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 months, or fine, or both.	[1][Presidency Magistrate, or Magistrate of the first class.]
293	[1][Sale, etc., of obscene objects to young persons.]	Ditto ..	Ditto ..	Ditto ..	Ditto ..	[1][Imprisonment of either description for 6 months, or fine, or both.]	[1][Presidency Magistrate, or Magistrate of the first class.]
294	Obscene songs ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 months, or fine, or both.	[2][Any Magistrate.]

[1] Subs. by the Obscene Publications Act, 1925 (8 of 1925), s. 3, for the original entries.

[2] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

(*Schedule II.—Tabular Statement of Offences. Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals. Chapter XV.—Offences relating to Religion.*)

SCHEDULE II—*contd.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
294A	Keeping a lottery office.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Fine of 1,000 rupees.	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate, or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chapter XV.—Offences relating to Religion.)

[1][295A	Maliciously insulting the religion or the religious beliefs of any class.	Shall not arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Presidency Magistrate.]
296	Causing a disturbance to an assembly engaged in religious worship.	[2][May arrest without warrant.]	[2][Summons]	[2][Bailable]	[2][Not compoundable.]	Imprisonment of either description for one year, or fine, or both.	[2][Presidency Magistrate, or Magistrate of the first or second class.]
297	Trespassing in place of worship or sepulture, disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto ..	Ditto ..	Compoundable.	Ditto ..	Ditto.

[1] Ins. by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 3.
[2] Subs. by s. 3, *ibid.*, for the original entries.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Of offences affecting Life.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
302	Murder	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Death, or transportation for life, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Death ..	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.)

	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act.	Ditto ..	Ditto ..	Bailable ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
305	Abetment of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated.	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Death, or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.
306	Abetting the commission of suicide.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
307	Attempt to murder	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
	If such act cause hurt to any person.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or as above.	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Death or as above.	Ditto.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Offences affecting Life—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
308	Attempt to commit culpable homicide.	May arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If such act cause hurt to any person.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Simple imprisonment for one year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
311	Being a thug ..	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Transportation for life, and fine.	Court of Session.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*)

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
313	Causing miscarriage without woman's consent.	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
	If act done without woman's consent.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, or fine, or both.	Ditto

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Shall not arrest without warrant.	Warrant ..	Not bailable	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto ..	Bailable ..	Ditto ..	Imprisonment of either description for 7 years, or fine, or both.	[1] [Court of Session, Presidency Magistrate or Magistrate of the first class.]
318	Concealment of birth by secret disposal of dead body.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first [2]** class.

Of Hurt.

323	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons ..	Bailable ..	Compoundable.	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto ..	Ditto ..	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto ..	Ditto ..	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s 159, for the original entry.
The words "or second" rep. by s. 159, *ibid.*

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Hurt—contd.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years, and fine.	[1][Court of Session, Presidency Magistrate or Magistrate of the first class.]
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	[1][Court of Session.]
329	Voluntarily causing grievous hurt to ex-	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprison-	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*)

	tort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.					ment of either description for 10 years, and fine.	
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Ditto ..	Ditto ..	Bailable ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto ..	Ditto ..	Bailable ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Imprisonment of either description for 10 years, and fine.	Court of Session.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Hurt—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	Summons ..	Bailable ..	Compoundable.	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Ditto ..	Ditto ..	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

336	Doing any act which endangers human life or the personal safety of others.	Ditto ..	Ditto ..	Ditto ..	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, etc.	Ditto ..	Ditto ..	Ditto ..	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
338	Causing grievous hurt by an act which endangers human life, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.
	Of Wrongful Restraint and Wrongful Confinement.						
341	Wrongfully restraining any person.	May arrest without warrant.	Summons ..	Bailable ..	Compoundable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
342	Wrongfully confining any person.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Wrongful Restraint and Wrongful Confinement—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
343	Wrongfully confining for three or more days.	May arrest without warrant.	Summons ..	Bailable ..	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
344	Wrongfully confining for 10 or more days.	Ditto ..	Ditto ..	Ditto ..	[1][Not compoundable.]	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*)

345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ..	Ditto ..	Not compoundable	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret.	May arrest without warrant.	Ditto ..	Ditto ..	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Ditto ..	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, etc.	Ditto ..	Ditto ..	Ditto ..	[1][Not compoundable.]	Imprisonment of either description for 3 years, and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1]Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Criminal Force and Assault.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons ..	Bailable ..	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant ..	Ditto ..	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
354	Assault or use of criminal force to a woman with intent	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.)

	to outrage her modesty.						
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons ..	Ditto ..	Compoundable.	Ditto ..	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant ..	Not bailable.	Not Compoundable.	Ditto ..	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ..	Ditto ..	Bailable ..	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons ..	Ditto ..	Compoundable.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

[1]Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Kidnapping, Abduction, Slavery and Forced Labour.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
363	Kidnapping ..	May arrest without warrant.	Warrant ..	[1][Bailable.]	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
364	Kidnapping or abducting in order to murder.	Ditto ..	Ditto ..	[1][Not bailable.]	Ditto ..	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrong-	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and	Court of Session, Presidency Magistrate or Magis-

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.)

	fully to confine a person.					fine.	trate of the first class.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Court of Session.
[2][366A	Procuration of minor girl.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
366B	Importation of girl from foreign country.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.]
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Punishment for kidnapping or abduction.	[1][Court of Session, Presidency Magistrate or Magistrate of the first class.]
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entries.
[2] Ins. by the Indian Penal Code (Amendment) Act, 1923 (20 of 1923), s. 4.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Kidnapping, Abduction, Slavery and Forced Labour—contd.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Warrant ..	Bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
371	Habitual dealing in slaves.	May arrest without warrant.	Ditto ..	Not bailable.	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
372	Selling or letting to hire a minor for purposes of prostitution, etc.	Ditto ..	Ditto ...	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.

374	Unlawful compulsory labour.	[1][Shall not arrest without warrant.]	Ditto ..	Bailable ..	Compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
			[2][*Of Rape.*				
376	Rape.						
	If the sexual intercourse was by a man with his own wife not being under 12 years of age.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Chief Presidency Magistrate or District Magistrate.
	If the sexual intercourse was by a man with his own wife being under 12 years of age.	Shall not arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
	In any other case	May arrest without warrant.	Warrant ..	Not bailable	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.]
			Of Unnatural Offences.				
377	Unnatural offences	May arrest without warrant.	Warrant ..	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.
[2] Subs. by the Indian Penal Code (Amendment) Act, 1925 (29 of 1925), s. 5, for the original entries.

(Schedule II.—Tabular Statement of Offences. Chapter XVII.—Offences against Property.)

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.

Of Theft.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
379	Theft	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent or vessel.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
381	Theft by clerk or servant of property in possession of master or employer.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
382	Theft, preparation having been made	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Rigorous imprisonment for 10 years,	Court of Session, Presidency Magis-

	for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.					and fine.	trate or Magistrate of the first class.
				Of Extortion.			
384	Extortion ..	Shall not arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto .	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Imprisonment of either description for 10 years, and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Extortion—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
	If the offence threatened be an unnatural offence.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life.	Ditto.
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.

	tor 10 years, in order to commit extortion.						
	If the offence be an unnatural offence.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life.	Ditto.
	Of Robbery and Dacoity.						
392	Robbery ..	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Rigorous imprisonment for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If committed on the highway between sunset and sunrise.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Rigorous imprisonment for 14 years, and fine.	Ditto.
393	Attempt to commit robbery.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Rigorous imprisonment for 7 years, and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
395	Dacoity	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Court of Session.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Robbery and Dacoity—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
396	Murder in dacoity .	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Death, transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
399	Making preparation to commit dacoity.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Rigorous imprisonment for 10 years, and fine.	Ditto.

400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Rigorous imprisonment for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Court of Session.
	Of Criminal Misappropriation of Property.						
403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant ..	Bailable .	[1] [Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.

[1]Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd*

Of Criminal Misappropriation of Property—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
1*	If by clerk or person employed by deceased.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.

Of Criminal Breach of Trust.

406	Criminal breach of trust.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
407	Criminal breach of trust by a carrier, wharfinger, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

[1] The figures "405" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of the Receiving of Stolen Property—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Of Cheating.

417	Cheating ..	Shall not arrest without warrant.	Warrant ..	Bailable ..	[1] [Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto ..	Ditto ..	Ditto ..	[1] [Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation.	May arrest without warrant.	Ditto ..	Ditto ..	[1] [Compoundable when permission is given by the Court before which the prosecution is pending.]	Ditto ..	Ditto.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Cheating—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	May arrest without warrant.	Warrant ..	Bailable ..	[1] [Compoundable when permission is given by the Court before which the prosecution is pending.]	Inprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of Fraudulent Deeds and Disposition of Property.

421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto.
424	Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto.
				Of Mischief.			
426	Mischief	Shall not arrest without warrant.	Summons ..	Bailable ..	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Mischief—contd.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto ..	Ditto ..	Not compoundable.	Ditto ..	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., what-	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

	ever may be its value or any other animal of the value of 50 rupees or upwards.						
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto ..	Ditto ..	Ditto ..	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Ditto ..	Ditto.
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto ..	Ditto ..	Ditto ..	[1][Not compoundable.]	Ditto ..	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto ..	Ditto ..	Ditto ..	Not compoundable.	Ditto ..	Ditto.
433	Mischief by destroying or moving or rendering less useful a lighthouse or sea-mark, or by exhibiting false lights.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Mischief—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
434	Mischief by destroying or moving, etc., a land-mark fixed by public authority.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
436	Mischief by fire or explosive substance with intent to des-	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Transportation for life, or imprisonment of either	Court of Session.

	troy, a house, etc.					description for 10 years, and fine.	
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life or imprisonment of either description for 10 years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
440	Mischief committed after preparation made for causing death, or hurt, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Of Criminal Trespass.						
447	Criminal trespass ..	May arrest without warrant.	Summons ..	Bailable ..	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Criminal Trespass—contd.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
448	House-trespass ..	May arrest without warrant.	Warrant ..	Bailable ..	Compoundable.	Imprisonment of either description for one year, or fine of 1,000 rupees, or both.	Any Magistrate.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto ..	Ditto ..	Not bailable.	Not compoundable.	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.

451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto ..	Ditto ..	Bailable ..	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 2 years, and fine.	Any Magistrate.
	If the offence is theft	Ditto ..	Ditto ..	Not bailable.	[1][Not compoundable.]	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
452	House-trespass, having made preparation for causing hurt, assault, etc.	Ditto ..	Ditto .	Ditto ..	Not compoundable	Imprisonment of either description for 7 years, and fine.	Ditto.
453	Lurking house-trespass or house-breaking.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, and fine.	Presidency Magistrate or Magistrate of the first or second class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Criminal Trespass—contd.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
454—*contd.*	If the offence is theft.	May arrest without warrant.	Warrant ..	Not bailable	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, etc.	Ditto ..	Ditto ..	Ditto	Ditto ..	Ditto ..	Court of Session, Presidency Magistrate or Magistrate of the first class.
456	Lurking house-trespass or house-breaking by night.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chapter XVII.—Offences against Property.)

457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto.
	If the offence is theft.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 14 years, and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

(Schedule II—Tabular Statement of Offences. Chapter XVII.—Offences against Property. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.)

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*concld.*

Of Criminal Trespass—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	May arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

465	Forgery	Shall not arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
466	Forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant.	Ditto ..	Ditto ..	Not bailable	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session.

(Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.)

467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	When the valuable security is a promissory note of the [1][Central Government].	May arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto ..	Ditto ..	Bailable ..	Ditto ..	Imprisonment of either description for 3 years, and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Punishment for forgery of such document.	Same Court as that by which the forgery is triable.

1 Subs. by the A. O. for "G. of I.".

SCHEDULE II—*contd.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the pol ce may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
471 —*contd.*	When the forged document is a promissory note of the [1][Central Government].	May arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Punishment for forgery of such document.	Court of Session.
472	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.
473	Making or counterfeiting a seal, plate, etc., with	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.)

	intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.					for 7 years, and fine.	
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Indian Penal Code.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.
	If the document is one of the description mentioned in section 467 of the Indian Penal Code.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.

[1] Subs. by the A. O. for "G. of I.".

SCHEDULE II—*contd.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Shall not arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, etc.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.
477A	Falsification of accounts.	Ditto ..	Ditto ..	[1][Bailable]	Ditto ..	[1][Imprisonment of either description	[1][Court of Session, Presidency Magis-

						for 7 years, or fine, or both.]	trate or Magistrate of the first class.]
			Of Trade and Property Marks.				
482	Using a false trade or property mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ..	Bailable ..	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
483	Counterfeiting a trade or property mark used by another, with intent to cause damage or injury.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Ditto ..	Summons ..	Ditto ..	[1][Not compoundable.]	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1]Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

(*Schedule II.—Tabular Statement of Offences.*) *Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.*)

SCHEDULE II—*contd.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*contd.*

Of Trade and Property Marks—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade-mark.	Shall not arrest without warrant.	Summons ..	Bailable ..	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto ..	Ditto ..	Ditto ..	[1][Compoundable with permission of the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.)

487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, etc.	Ditto ..	Ditto ..	Ditto ..	[1][Not compoundable.]	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
488	Making use of any such false mark.	Ditto ..	Ditto .	Ditto ..	Not compoundable.	Ditto ..	Ditto.
489	Removing, destroying or defacing any property-mark with intent to cause injury.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
			[2][*Of Currency-Notes and Bank-Notes.*				
489A	Counterfeiting currency-notes or bank-notes.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Transportation for life or imprisonment of either description for 10 years, and fine.	Court of Session.
489B	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

[2] This portion was ins. by the Currency Notes Forgery Act, 1899 (12 of 1899), s. 3.

(Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks. Chapter XIX.—Criminal Breach of Contracts of Service.)

SCHEDULE II—*contd.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*concld.*

Of Currency Notes and Bank-Notes—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
489C	Possession of forged or counterfeit currency-notes or bank-notes.	May arrest without warrant.	Warrant ..	Bailable ..	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
489D	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Ditto ..	Ditto ..	Not bailable.	Ditto ..	Transportation for life or imprisonment of either description for 10 years, and fine.	Ditto.]

CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490	Being bound by contract to render per-	Shall not arrest without	Summons ..	Bailable ..	Compoundable.	Imprisonment of either description	Presidency Magistrate or Magis-

(Schedule II.—Tabular Statement of Offences. Chapter XIX.—Criminal Breach of Contracts of Service.)

	sonal service during a voyage or journey or to convey or guard any property or person and voluntarily omitting to do so.	warrant.				for 1 month, or fine of 100 rupees, or both.	trate of the first or second class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

SCHEDULE II—*contd.*

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
494	Marrying again during the lifetime of a husband or wife.	Ditto ..	Ditto ..	Bailable ..	[1] [Compoundable with permission of the Court before which the prosecution is pending.]	Imprisonment of either description for 7 years, and fine.	[1] [Court of Session, Presidency Magistrate or Magistrate of the first class.]

(Schedule II.—Tabular Statement of Offences. Chapter XX.—Offences relating to Marriage. Chapter XXI.—Defamation.)

495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto ..	Ditto ..	[1][Bailable]	[1][Not compoundable.]	Imprisonment of either description for 10 years, and fine.	[1][Court of Session.]
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
497	Adultery ..	Ditto ..	Ditto ..	Bailable ..	Compoundable.	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
			CHAPTER XXI.—DEFAMATION.				
500	Defamation ..	Shall not arrest without warrant.	Warrant ..	Bailable ..	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1]Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

(Schedule II.—Tabular Statement of Offences Chapter XXI.—Defamation. Chapter XXII.—Criminal Intimidation, Insult and Annoyance.)

SCHEDULE II—*contd.*

CHAPTER XXI.—DEFAMATION—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
501	Printing or engraving matter knowing it to be defamatory.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto.

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumour, etc , circulat-	Ditto ..	Ditto ..	Not bailable.	Not compoundable.	Ditto ..	Presidency Magistrate or Magistrate of the first

(Schedule II.—Tabular Statement of Offences. Chapter XXII.—Criminal Intimidation Insult and Annoyance.)

	ed with intent to cause mutiny or offence against the public peace.						class.
506	Criminal intimidation.	Ditto ..	Ditto ..	Bailable ..	Compoundable.	Ditto ..	[1][Presidency Magistrate or Magistrate of the first or second class.]
	If threat be to cause death or grievous hurt, etc.	Ditto ..	Ditto ..	Ditto ..	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto ..	Ditto ..	Ditto ..	[2][Compoundable.]	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

[1] Subs. by the Amending Act, 1903 (1 of 1903), Sch. II, Part II for "Ditto".

[2] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

(Schedule II.—Tabular Statement of Offences. Chapter XXII.—Criminal Intimidation, Insult and Annoyance. Chapter XXIII.—Attempts to Commit Offences.)

SCHEDULE II—*contd.*

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Shall not arrest without warrant.	Warrant ..	Bailable ..	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
510	Appearing in a public place, etc., in a state of intoxication, and causing annoyance to any person.	Ditto ..	Ditto ..	Ditto ..	[1][Not compoundable.]	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transpor-	According as the offence is one in res-	According as the offence is one in res-	According as the offence con-	Compoundable when the offence	Transportation or imprisonment not exceeding half of	The Court by which the offence attempted is triable.

(Schedule II.—Tabular Statement of Offences. Chapter XXIII.—Attempts to Commit Offences.)

tation or imprisonment, and in such attempt doing any act towards the commission of the offence.	pect of which the police may arrest without warrant or not.	pect of which a summons or warrant shall ordinarily issue.	templated by the offender is bailable or not.	attempted is compoundable.	the longest term, and of any description, provided for the offence, or fine, or both.	
			OFFENCES AGAINST OTHER LAWS.			
If punishable with death, transportation or imprisonment for 7 years or upwards.	May arrest without warrant.	Warrant ..	Not bailable.	Not compoundable.	....	Court of Session.
If punishable with imprisonment for 3 years and upwards, but less than 7.	Ditto ..	Ditto ..	Ditto .. Except in cases under the Indian Arms Act, 1878, section 19, which shall be bailable.	Ditto ..	....	Court of Session, Presidency Magistrate or Magistrate of the first class.
If punishable with imprisonment for 1 year and upwards, but less than 3 years.	Shall not arrest without warrant.	Summons ..	Bailable ..	Ditto ..	....	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
If punishable with imprisonment for less than 1 year, or with fine only.	Ditto ..	Ditto ..	Ditto ..	Ditto	....	Any Magistrate.

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

(Schedule III.—Ordinary Powers of Provincial Magistrates.)

SCHEDULE III.

(See section 36.)

ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

I.—Ordinary Powers of a Magistrate of the Third Class.

(1) Power to arrest or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64.

(2) Power to arrest, or direct the arrest in his presence of, an offender, section 65.

(3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.

(4) Power to issue proclamations in cases judicially before him, section 87.

(5) Power to attach and sell property [1][and to dispose of claims to attached property] in cases judicially before him, section 88.

(6) Power to restore attached property, section 89.

(7) Power to require search to be made for letters and telegrams, section 95.

(8) Power to issue search-warrant, section 96.

(9) Power to endorse a search warrant and order delivery of thing found, section 99.

(10) Power to command unlawful assembly to disperse, section 127.

(11) Power to use civil force to disperse unlawful assembly, section 128.

(12) Power to require military force to be used to disperse unlawful assembly, section 130.

[2]* * * * * * * *

(14) Power to authorise detention [1][not being detention in the custody of the police] of a person during a police-investigation, section 167.

[1][(14*a*) Power to postpone issue of process and inquire into case himself, section 202.]

(15) Power to detain an offender found in Court, section 351.

[3] * * * * * * * * *

(17) Power to apply to District Magistrate to issue commission for examination of witness, section 506 (*2*).

(18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514 [1][and to require fresh security, section 514A].

[1][(18*a*) Power to make order as to custody and disposal of property pending inquiry or trial, section 516A.]

(19) Power to make order as to disposal of property, section 517.

(20) Power to sell [4]* property of a suspected character, section 525.

[1][(21) Power to require affidavit in support of application, section 539A.]

[1][(22) Power to make local inspection, section 539B.]

---

[1] Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 160.

[2] Item 13 rep. by s. 160, *ibid.*

[3] Item 16 rep. by the Repealing and Amending Act, 1925 (37 of 1925), s. 3 and Sch. II.

[4] The word "perishable" rep. by Act 18 of 1923, s. 160.

(Schedule III.—Ordinary Powers of Provincial Magistrates.)

SCHEDULE III—*contd.*

II.—Ordinary Powers of a Magistrate of the Second Class.

(1) The ordinary powers of a Magistrate of the third class.

(2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.

[1][(3) Power to postpone issue of process and to inquire into a case or direct investigation, section 202.]

[2]* * * * * * * * *

III.—Ordinary Powers of a Magistrate of the First Class.

(1) The ordinary powers of a Magistrate of the second class.

(2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.

(3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.

(4) Power to require security to keep the peace, section 107.

(5) Power to require security for good behaviour, section 109.

(6) Power to discharge sureties, section [3][126A].

[4][(6*a*) Power to make orders as to local nuisances, section 133.]

(7) Power to make orders, etc., in possession cases, sections 145, 146 and 147.

[4][(7*a*) Power to record statements and confessions during a police investigation, section 164.]

[4][(7*aa*) Power to authorise detention of a person in the custody of the police during a police investigation, section 167.]

[4][(7*b*) Power to hold inquests, section 174.]

(8) Power to commit for trial, section 206.

(9) Power to stop proceedings when no complainant, section 249.

[4][(9*a*) Power to tender pardon to accomplice during inquiry into case by himself, section 337.]

(10) Power to make orders of maintenance, sections 488 and 489.

(11) Power to take evidence on commission, section 503.

(12) Power to recover penalty on forfeited bond, section 514.

[4][(12*a*) Power to require fresh security, section 514A.]

[4][(12*b*) Power to re-call case made over by him to another Magistrate, section 528 (*4*).]

(13) Power to make order as to first offenders, section 562.

[1][(14) Power to order released convicts to notify residence, section 565.]

IV.—Ordinary Powers of a Sub-divisional Magistrate [4][*appointed under section 13*].

(1) The ordinary powers of a Magistrate of the first class.

(2) Power to direct warrants to landholders, section 78.

(3) Power to require security for good behaviour, section 110.

[2]* * * * * * * * *

(5) Power to make orders prohibiting repetitions of nuisances, section 143.

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 160, for the original item.

2 Item (4) rep. by s. 160, *ibid.*

3 Subs. by s. 160, *ibid,* for " 126 ".

4 Ins. by s. 160, *ibid.*

(*Schedule III.—Ordinary Powers of Provincial Magistrates.*)

SCHEDULE III.—*contd.*

IV.—Ordinary Powers of a Sub-divisional Magistrate [1][*appointed under section 13*]—contd.

(6) Power to make orders under section 144.

(7) Power to depute Subordinate Magistrate to make local inquiry, section 148.

(8) Power to order police investigation into cognizable case, section 156.

(9) Power to receive report of police-officer and pass order, section 173.

[2]* * * * * * * *

(11) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.

(12) Power to entertain complaints, section 190.

(13) Power to receive police-reports, section 190.

(14) Power to entertain cases without complaint, section 190.

(15) Power to transfer cases to a Subordinate Magistrate, section 192.

(16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.

(17) Power to forward record of inferior Court to District Magistrate, section 435 (*2*).

(18) Power to sell property alleged or suspected to have been stolen, etc., section 524.

(19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.

[2]* * * * * * * *

V.—Ordinary Powers of a District Magistrate.[3]

(1) The ordinary powers of a Sub-divisional Magistrate.

[4][(1*a*) Power to try juvenile offenders, section [5][29B].]

(2) Power to require delivery of letters, telegrams, etc., section 95.

(3) Power to issue search-warrants for documents in custody of postal or telegraph authority, section 96.

(4) Power to require security for good behaviour in case of sedition, section 108.

(5) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.

(6) Power to cancel bond for keeping the peace, section 125.

[4][(6*a*) Power to order preliminary investigation by police-officer not below the rank of Inspector in certain cases, section 196B.]

(7) Power to try summarily, section 260.

[4][(7*a*) Power to tender pardon to accomplice at any stage of a case, section 337.]

(8) Power to quash convictions in certain cases, section 350.

(9) Power to hear appeals from orders requiring security for [4][keeping the peace or] good behaviour, section 406.

[1][(9*a*) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406A.]

(10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.

(11) Power to call for records, section 435.

---

1 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 160.

2 Items (10) and (20) rep. by s. 160, *ibid.*

3 Under the Frontier Crimes Regulation, 1901 (3 of 1901), Additional District Magistrates appointed under s. 4 of the Regulation have the powers specified in Part V of the Third Schedule—*see* s. 4 (*2*) of the Regulation.

4 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 160.

5 Subs. by s. 2 and Sch. I of the Repealing and Amending Act, 1934 (24 of 1934), for "29A".

(Schedule III.—Ordinary Powers of Provincial Magistrates.)

SCHEDULE III—*concld.*

V.—Ordinary Powers of a District Magistrate[1]—concld.

[2][(12)] Power to order inquiry into complaint dismissed or case of accused discharged, section [3][436].

[2][(13)] Power to order commitment, section [4][437].

(14) Power to report case to High Court, section 438.

[5]* * * * * * *

(17) Power to appoint person to be Public Prosecutor in particular case, section 492 (*2*).

(18) Power to issue commission for examination of witness, sections 503, 506.

(19) Power to hear appeals from or revise orders passed under sections 514, 515.

(20) Power to compel restoration of abducted female, section 552.

SCHEDULE IV.

(See sections 37 and 38.)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED.	By THE [7][PROVINCIAL GOVERNMENT].	(1) Power to require security for good behaviour in case of sedition, section 108 : (2) Power to require security for good behaviour, section 110 : [6]* * * * * (4) Power to make orders prohibiting repetitions of nuisances, section 143 ; (5) Power to make orders under section 144 : [6]* * * * * (7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186 : (8) Power to take cognizance of offences upon complaint, section 190 : (9) Power to take cognizance of offences upon police reports, section 190 : (10) Power to take cognizance of offences without complaint, section 190 : (11) Power to try summarily, section 260 ; (12) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407 :

---

1 Under the Frontier Crimes Regulation, 1901 (3 of 1901), Additional District Magistrates appointed under s. 4 of the Regulation have the powers specified in Part V of the Third Schedule—*see* s. 4 (*2*) of the Regulation.

2 Original items (12) and (13) were re-numbered (13) and (12) respectively by s. 160, ~~*ibid.*~~ of the Code of Criminal Procedure (Amendment) Act, 1923

3 Subs. by s. 160, *ibid*, for "437".

4 Subs. by s. 160, *ibid*, for "436".

5 Items (15) and (16) rep. by s. 3 and Sch. II of the Repealing and Amending Act, 1925 (37 of 1925).

6 Items (3) and (6) rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 161.

7 Subs. by the A. O. for "L. G.".

(*Schedule IV.—Additional Powers with which Provincial Magistrates may be invested.*)

SCHEDULE IV—*contd.*

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED—*concld.*	BY THE PROVINCIAL GOVERNMENT—*concld.*	(13) Power to sell property alleged or suspected to have been stolen, etc., section 524 : [1] * * * * (15) Power to try cases under section 124A of the Indian Penal Code:
	BY THE DISTRICT MAGISTRATE.	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : [2] * * * * (4) Power to take cognizance of offences upon complaint, section 190 : (5) Power to take cognizance of offences upon police reports, section 190 : (6) Power to transfer cases, section 192.
POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED.	BY THE [5][PROVINCIAL GOVERNMENT.]	[3] * * * * (2) Power to make orders prohibiting repetitions of nuisances, section 143 : (3) Power to make orders under section 144 : [4][(3*a*) Power to record statements and confessions during a police investigation, section 164 :] [4][(3*b*) Power to authorise detention of a person in the custody of the police during a police investigation, section 167 :] (4) Power to hold inquests, section 174 : (5) Power to take cognizance of offences upon complaint, section 190 : (6) Power to take cognizance of offences upon police-reports, section 190 : (7) Power to take cognizance of offences without complaint, section 190 : (8) Power to commit for trial section 206 : (9) Power to make order as to first offenders, section 562.
	BY THE DISTRICT MAGISTRATE.	(1) Power to make orders prohibiting repetitions of nuisances, section 143 :

1 Item (14) rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 161.

2 Item (3) rep., *ibid.*

3 Item (1) rep. by the Whipping Act, 1909 (4 of 1909).

4 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 161.

5 Subs. by the A. O. for "L. G.".

(*Schedule IV.—Additional Powers with which Provincial Magistrates may be invested. Schedule V.—Forms.*)

SCHEDULE IV—*concld.*

POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED—*concld.*	BY THE DISTRICT MAGISTRATE—*concld.*	(2) Power to make orders under section 144 : (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon complaint, section 190 : (5) Power to take cognizance of offences upon police-reports, section 190 :
POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED.	BY THE [1][PROVINCIAL GOVERNMENT].	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : [2]* * * * (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon complaint, section 190 : (5) Power to take cognizance of offences upon police-reports, section 190 : [2]* * * * *
	BY THE DISTRICT MAGISTRATE.	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : [3] * * * * * (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon complaint, section 190 : (5) Power to take cognizance of offences upon police-reports, section 190 :
POWERS WITH WHICH A SUB-DIVISIONAL MAGISTRATE MAY BE INVESTED.	BY THE [1][PROVINCIAL GOVERNMENT].	Power to call for records, section 435.

SCHEDULE V.

(*See section* [4][*555*].)

FORMS.

I.—SUMMONS TO AN ACCUSED PERSON.

(*See section 68.*)

To of .

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or* by pleader, *as the case may be*) before the (*Magistrate*) of , on the day of . Herein fail not.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

1 Subs. by the A. O. for "L. G.".

2 Items (2) and (6) rep. by s. 161 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923).

3 Item (2) rep. by s. 161, *ibid.*

4 Subs. by the Amending Act, 1903 (1 of 1903), Sch. II, Pt. II, for "554".

(*Schedule V.—Forms.*)

II.—WARRANT OF ARREST.

(*See section 75.*)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

(*See section 76.*)

This warrant may be endorsed as follows :—

If the said shall give bail himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of)to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of , 18 .

(*Signature.*)

III.—BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT.

(*See section 86.*)

I, (*name*), of . being brought before the District Magistrate of (*or as the case may be*) under a warrant issued to compel my appearance to answer to the charge of , do hereby bind myself to attend in the Court of on the day of next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court ; and, in case of my making default herein, I bind myself to forfeit, to Her Majesty the Queen, ~~Empress of India~~, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

I do hereby declare myself surety for the abovenamed of , that he shall attend before in the Court of on the day of next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court ; and, in case of his making default therein, I bind myself to forfeit to Her Majesty the Queen, ~~Empress of India~~, the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

IV.—PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED.

(*See section 87.*)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found, and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant) ;

(*Schedule V.—Forms.*)

Proclamation is hereby made that the said of is required to appear at (*place*) before this Court (*or* before me) to answer the said complaint [1][on the day of].

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

(*See section 87.*)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint ; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant) ;

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the Court of on the day of next at o'clock to be examined touching the offence complained of.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS.

(*See section 88.*)

To the Police-officer in charge of the Police-station at .

WHEREAS a warrant has been duly issued to compel the attendance of (*name, description and address*) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served ; and whereas it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant) ; and thereupon a [2][Proclamation has been or is being duly issued] and published requiring the said to appear and give evidence at the time and place mentioned therein, [3]* * * ;

This is to authorize and require you to attach by seizure the movable property belonging to the said to the value of rupees which you may find within the District of and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(*See section 88.*)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found ; and whereas it has been shown to my satisfaction that the said (*name*) has

---

1 Subs. by the Amending Act, 1903 (I of 1903), Sch. II, Part II, for "within days from this date".

2 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "Proclamation was duly issued".

3 The words "and he has failed to appear" rep., *ibid.*

(*Schedule V.—Forms.*)

absconded (*or* is concealing himself to avoid the service of the said warrant), and thereupon a [1][Proclamation has been or is being duly issued] and published requiring the said to appear to answer the said charge within days ; and whereas the said is possessed of the following property other than land paying revenue to Government in the village (*or* town) of , in the District of , *viz.*, and an order has been made for the attachment thereof ;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(*See section 88.*)

To the Deputy Commissioner of the District of

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found ; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant) and thereupon a [1][Proclamation has been or is being duly issued] and published requiring the said to appear to answer the said charge within days, [2] ; and whereas the said is possessed of certain land paying revenue to Government in the village (*or* town) of in the District of ;

You are hereby authorized and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated this day of , 18 .

(*Seal.*) (*Signature.*)

VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS.

(*See section 90.*)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that of has (*or* is suspected to have) committed the offence of (*mention the offence concisely*), and it appears likely that (*name and description of witness*) can give evidence concerning the said complaint ; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so ;

This is to authorize and require you to arrest the said (*name*), and on the day of to bring him before this Court, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

---

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "Proclamation was duly issued".

[2] The words "but he has not appeared" rep., *ibid.*

(*Schedule V.—Forms.*)

VIII.—WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE.

(*See section 96.*)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*)

WHEREAS information has been laid (*or* complaint has been made) before me of the commission (*or* suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made (*or* about to be made) into the said offence (*or* suspected offence) ;

This is to authorize and require you to search for the said (*the thing specified*) in the (*describe the house or place or part thereof to which the search is to be confined*) and, if found, to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

(*See section 98.*)

To (*name and designation of a Police-officer above the rank of a Constable*).

WHEREAS information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (*describe the house or other place*) is used as a place for the deposit (*or* sale) of stolen property (*or if for either of the other purposes expressed in the section, state the purpose in the words of the section*) ;

This is to authorize and require you to enter the said house (*or other place*) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (*or other place, or if the search is to be confined to a part, specify the part clearly*) and to seize and take possession of any property (*or* documents, *or* stamps, *or* seals, *or* coins, [1][*or* obscene objects,] *as the case may be*)—[Add (*when the case requires it*) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, *or* counterfeit stamps, *or* false seals, *or* counterfeit coin (*as the case may be*)], and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*) (*Signature.*)

X.—BOND TO KEEP THE PEACE.

(*See section 107.*)

WHEREAS I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to keep the peace for the term of [2][or until the completion of the inquiry in the matter of now pending in the Court of ,] I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term [2][or until the completion of the said inquiry] and, in case of my making default

---

1 Ins. by the Obscene Publications Act, 1925 (8 of 1925), s. 3.

2 Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162.

(*Schedule V.—Forms.*)

therein, I hereby bind myself to forfeit to Her Majesty the Queen, ~~Empress of India,~~ the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

XI.—BOND FOR GOOD BEHAVIOUR.

(*See sections 108, 109 and 110.*)

WHEREAS I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen, ~~Empress of India,~~ and to all Her subjects for the term of (*state the period*) [1][or until the completion of the inquiry in the matter of now pending in the Court of ,] I hereby bind myself to be of good behaviour to Her Majesty and to all Her subjects during the said term [1][or until the completion of the said inquiry]; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

(*Where a bond with sureties is to be executed, add*)—We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to Her Majesty the Queen, ~~Empress of India~~, and to all Her subjects during the said term [1][or until the completion of the said inquiry] ; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees .

Dated this day of , 18 .

(*Signature.*)

XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

(*See section 114.*)

To of .

WHEREAS it has been made to appear to me by credible information that (*state the substance of the information*), and that you are likely to commit a breach of the peace (*or* by which act a breach of the peace will probably be occasioned), you are hereby required to attend in person (*or* by a duly authorized agent) at the Office of the Magistrate of on the day of , 18 , at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees [*when sureties are required, add,* and also to give security by the bond of one (*or* two, *as the case may be*) surety (*or* sureties) in the sum of rupees (each *if more than one*)] that you will keep the peace for the term of .

Given under my hand and the seal of the Court. this day of , 18 .

(*Seal.*) (*Signature.*)

XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

(*See section 123.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS (*name and address*) appeared before me in person (*or* by his authorized agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees with one surety (*or* a bond with two sureties each in rupees), that he, the said (*name*), would keep the peace for the period

---

[1] Ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162.

(*Schedule V.—Forms.*)

of months ; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*), into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) unless he shall in the meantime [1][be lawfully ordered to be released] and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(*See section 123.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS it has been made to appear to me that (*name and description*) has been and is lurking within the district of having no ostensible means of subsistence (*or*, and that he is unable to give any satisfactory account of himself) ;

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded, from which it appears that he is an habitual robber (*or* house-breaker, etc., *as the case may be*) ;

And whereas an order has been recorded stating the same and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or* two or more sureties, *as the case may be*), himself for rupees , and the said surety (*or* each of the said sureties) for rupees , and the said (*name*) has failed to comply with the said order and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) unless he shall in the meantime [1][be lawfully ordered to be released] and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See sections 123 and 124.*)

To the Superintendent (*or* Keeper) of the Jail at (*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of the Court, dated the day of and

---

1 Subs. by the Amending Act, 1903 (I of 1903), Sch. II, Part II, for "comply with the said order by himself and his surety (*or* sureties), entering into the said bond, in which case the same shall be received and the said (*name*) released".

(*Schedule V.—Forms.*)

has since duly given security under section of the Code of Criminal Procedure ;

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community ;

This is to authorize and require you forthwith to discharge the said (*name*) from your custody unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XVI.—ORDER FOR THE REMOVAL OF NUISANCES.

(*See section 133.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you have caused an obstruction (*or* nuisance) to persons using the public roadway (*or other public place*) which, etc., (*describe the road or public place*), by, etc., (*state what it is that causes the obstruction or nuisance*), and that such obstruction (*or* nuisance) still exists ;

or

WHEREAS it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that the same is injurious to the public health (*or* comfort) by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place ;

or

WHEREAS it has been made to appear to me that you are the owner (*or* are in possession of *or* have the control over) a certain tank (*or* well *or* excavation) adjacent to the public way (*describe the thoroughfare*), and that the safety of the public is endangered by reason of the said tank (*or* well *or* excavation) being without a fence (*or* insecurely fenced) ;

or

WHEREAS, etc., etc. (*as the case may be*) ;

I do hereby direct and require you within (*state the time allowed*) to (*state what is required to be done to abate the nuisance*) or to appear at in the Court of on the day of next, and to show cause why this order should not be enforced ;

or

I do hereby direct and require you within (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc. ;

or

I do hereby direct and require you within (*state the time allowed*) to put up a sufficient fence (*state the kind of fence and the part to be fenced*) ; or to appear, etc. ;

or

I do hereby direct and require you, etc., etc. (*as the case may be*).

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

(*Schedule V.—Forms.*)

XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY.

(*See section 138.*)

WHEREAS on the day of 18 , an order was issued to (*name*) requiring him (*state the effect of the order*), and whereas the said (*name*) has applied to me, by a petition bearing date the day of , for an order appointing a Jury to try whether the said recited order is reasonable and proper ; I do hereby appoint (*the names, etc., of the five or more Jurors*) to be the Jury to try and decide the said question, and do require the said Jury to report their decision within days from the date of this order at my office at .

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XVIII.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY.

(*See section 140.*)

To (*name, description and address*).

I HEREBY give you notice that the Jury duly appointed on the petition presented by you on the day of have found that the order issued on the day of requiring you (*state substantially the requisition in the order*) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (*state the time allowed*), on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XIX.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY JURY.

(*See section 142.*)

To (*name, description and address*).

WHEREAS the inquiry by a Jury appointed to try whether my order issued on the day of 18 , is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure, direct and enjoin you forthwith to (*state plainly what is required to be done as a temporary safeguard*), pending the result of the local inquiry by the Jury.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XX.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE.

(*See section 143.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that, etc., (*state the proper recital, guided by* Form No. XVI or Form No. XXI, *as the case may be*) ;

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, etc. (*as the case may be*).

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

(*Schedule V.—Forms.*)

XXI.—MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(*See section 144.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you are in possession (*or* have the management) of (*describe clearly the property*), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road ;

or

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along the public street, etc. (*as the case may be*), and that such procession is likely to lead to a riot or an affray ;

or

WHEREAS, etc., etc. (*as the case may be*) ;

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land on any part of the said road ;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or as the case recited may require*).

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXII.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, ETC., IN DISPUTE.

(*See section 145.*)

IT appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*), situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true ;

I do decide and declare that he is (*or* they are) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or their*) possession in the meantime.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXIII.—WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND, ETC.

(*See section 146.*)

To the Police-officer in charge of the Police-station at [*or*, To the Collector of].

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the limits of my jurisdic-

tion, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (*the subject of dispute*) [*or* I am unable to satisfy myself as to which of the said parties was in possession as aforesaid] ;

This is to authorize and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER.

(*See section 147.*)

A DISPUTE having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (*or* water) is claimed exclusively by (*describe the person or persons*), and it appearing to me, on due inquiry into the same, that the said land (*or* water) has been open to the enjoyment of such use by the public (*or if by an individual or a class of persons, describe him or them*) and (*if the use can be enjoyed throughout the year*) that the said use has been enjoyed within three months of the institution of the said inquiry (*or if the use is enjoyable only at particular seasons, say* " during the last of the seasons at which the same is capable of being enjoyed ") ;

I do order that the said (*the claimant or claimants of possession*), or any one in their interest, shall not take (*or* retain) possession of the said land (*or* water) to the exclusion of the enjoyment of the right of use aforesaid, until he (*or* they) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(*See section 169.*)

I, (*name*), of , being charged with the offence of and after inquiry required to appear before the Magistrate of ,

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (*or* on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, ~~Empress of India~~, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the abovesaid that he shall attend at , in the Court of , on the day of next (*or* on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his

(*Schedule V.—Forms.*)

making default therein, I hereby bind myself (*or* we hereby bind ourselves) to forfeit to Her Majesty the Queen, ~~Empress of India~~, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE.

(*See section 170.*)

I, (*name*), of (*place*), do hereby bind myself to attend at in the Court of at o'clock on the day of next and then and there to prosecute (*or* to prosecute and give evidence) (*or* to give evidence) in the matter of a charge of against one *A. B.*, and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, ~~Empress of India~~, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

XXVII.—NOTICE OF COMMITMENT BY MAGISTRATE TO GOVERNMENT PLEADER.

(*See section 218.*)

THE Magistrate of hereby gives notice that he has committed one for trial at the next Sessions ; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, etc. (*state the offence as in the charge*).

Dated this day of 18 .

(*Signature.*)

XXVIII.—CHARGES.

(*See sections 221, 222, 223.*)

(I) CHARGES WITH ONE HEAD.

(*a*) I, [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows :—

(*b*) that you, on or about the day of , at , waged war against Her Majesty the Queen, ~~Empress of India,~~ and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court].

On Penal Code, section 121.

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b*)] :—

(2) That you, on or about the day of , at , with the intention of inducing the Hon'ble *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 124.

(3) That you, being a public servant in the Department, directly accepted from [*state the name*], for another party [*state the name*] a gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 161.

(*Schedule V.—Forms.*)

(4) That you, on or about the day of , at , did [*or* omitted to do, *as the case may be*] , such conduct being contrary to the provisions of Act , section , and known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 166.

(5) That you, on or about the day of , at in the course of the trial of before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 193.

(6) That you, on or about the day of , at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 304.

(7) That you, on or about the day of , at abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 306.

(8) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 325.

(9) That you, on or about the day of , at , robbed [*state the name*], and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 392.

(10) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 395.

[*In cases tried by Magistrates substitute* " within my cognizance " *for* " within the cognizance of the Court of Session,", *and in* (*c*) *omit* " by the said Court."]

(II) CHARGES WITH TWO OR MORE HEADS.

(*a*) I, [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows :—

(*b*) *First.*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 241.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

(*Schedule V.—Forms.*)

[*To be substituted for* (*b*)] :—

On sections 302 and 304.

(2) *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 379 and 382.

(3) *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Alternative charge on section 193.

(4) That you, on or about the day of , at , in the course of the inquiry into , before stated in evidence that " ", and that you, on or about the day of , at , in the course of the trial of , before , stated in the evidence that " ", one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

[*In cases tried by Magistrates substitute* " within my cognizance " *for* " within the cognizance of the Court of Session " *and in* (*c*) *omit* " by the said Court ".]

(III) CHARGE FOR THEFT AFTER PREVIOUS CONVICTION.

I, (*name and office of Magistrate, etc.*), hereby charge you (*name of accused person*) as follows :—

That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court / Magistrate *as the case may be*].

And you, the said (*name of accused*), stand further charged that you, before the committing of the said offence, that is to say, on the day of , had been convicted by the (*state Court by which conviction was had*) at of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is

to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the accused was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, etc.

XXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE.

(*See sections 245 and 258.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS on the day of 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar for 18 , was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*) under section (*or sections*) of the Indian Penal Code (*or* of Act), and was sentenced to (*state the punishment fully and distinctly*) ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXX.—WARRANT OF IMPRISONMENT ON FAILURE TO RECOVER AMENDS BY [1][ATTACHMENT AND SALE].

(*See section 250.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*) and the same has been dismissed as [2][false and] frivolous (*or* vexatious), and the order of dismissal awards payment by the said (*name of complainant*) of the sum of rupees as amends ; and whereas the said sum has not been paid [3]* * * and an order has been made for his simple imprisonment in Jail for the period of days, unless the aforesaid sum be sooner paid ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXI.—SUMMONS TO WITNESS.

(*See sections 69 and 252.*)

To of .

WHEREAS complaint has been made before me that of has (*or* is suspected to have) committed the offence of (*state the offence concisely with*

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "Distress".

2 Ins., *ibid.*

3 The words "and cannot be recovered by distress of the moveable property of the said (*name of complainant*)" rep., *ibid.*

(*Schedule V.—Forms.*)

time and place), and it appears to me that you are likely to give material evidence for the prosecution ;

You are hereby summoned to appear before this Court on the day of next at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court ; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON JURORS AND ASSESSORS.

(*See section 326.*)

To the District Magistrate of .

WHEREAS a Criminal Session is appointed to be held in the Court-house at on the day of next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of Jurors and Assessors furnished to this Court ; you are hereby required to summon the said persons to attend at the said Court of Session at 10 A.M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(*Here enter the names of Jurors and Assessors.*)

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXIII.—SUMMONS TO ASSESSOR OR JUROR.

(*See section 328.*)

To (*name*) of (*place*).

PURSUANT to a precept directed to me by the Court of Session of requiring your attendance as an Assessor (*or* a Juror) at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (*place*) at ten o'clock in the forenoon on the day of next.

Given under my hand and the seal of office, this day of 18 .

(*Seal.*) (*Signature.*)

XXXIV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH.

(*See section 374.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS at the Session held before me on the day of 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the Court of ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Given under my hand and the seal of the Court, this day of 18

(*Seal.*) (*Signature.*)

(*Schedule V.—Forms.*)

XXXV.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH.

(*See section 381.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the Session held before me on the day of , 18 , has been by a warrant of this Court, dated the day of , committed to your custody under sentence of death ; and whereas the order of the Court of confirming the said sentence has been received by this Court ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXVI.—WARRANT AFTER A COMMUTATION OF A SENTENCE.

(*See sections 381 and 382.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS at a Session held on the day of 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody ; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or as the case may be*) ;

This is to authorize and require you, the said Superintendent (*or* Keeper), safely to keep the said (*prisoner's name*) in your custody in the said Jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order,

or

if the mitigated sentence is one of imprisonment, say, after the words, "custody in the said Jail," "and there to carry into execution the punishment of imprisonment under the said order according to law".

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXVII.—WARRANT TO LEVY A FINE BY [1][ATTACHMENT] AND SALE.

(*See section 386* [2][(*1*) (*a*)].)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS (*name and description of the offender*) was on the day of 18 , convicted before me of the offence of (*mention the offence concisely*), and sentenced to pay a fine of rupees ; and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof ;

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "Distress".

2 Ins., *ibid.*

(*Schedule V.—Forms.*)

This is to authorize and require you to [1][attach any] moveable property belonging to the said (*name*) which may be found within the district of ; and, if within (*state the number of days or hours allowed*) next after [2][such attachment] the said sum shall not be paid (*or* forthwith), to sell the moveable [3][property attached], or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

---

[4][XXXVIIA.—BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE.

(*See section 388.*)

WHEREAS I, (*name*), inhabitant of (*place*), have been sentenced to pay a fine of rupees and in default of payment thereof to undergo imprisonment for ; and whereas the Court has been pleased to order my release [5]* * * * on condition of my executing a bond for my appearance [6][on the following date (*or* dates) namely :—] ;

I hereby bind myself to appear before the Court of at o'clock [6][on the following date (*or* dates) namely :—] and in case of making default herein, I bind myself to forfeit to His Majesty the King, ~~Emperor of India~~, the sum of Rupees .

Dated this day of 19 .

(*Signature.*)

Where a bond with sureties is to be executed, add—

We do hereby declare ourselves sureties for the above-named that he will appear before the Court of [6][on the following date (*or* dates) namely :—] and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to His Majesty the King, ~~Emperor of India~~, the sum of Rupees .

(*Signature.*)]

XXXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(*See section 480.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS at a Court holden before me on this day (*name and description of the offender*) in the presence (*or* view) of the Court committed wilful contempt ;

And whereas for such contempt the said (*name of offender*) has been adjudged by the Court to pay a fine of rupees , or in default to suffer simple imprisonment for the space of (*state the number of months or days*) ;

This is to authorize and require you, the Superintendent (*or* Keeper) of the said Jail, to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprison-*

---

1 Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162 for "make distress by seizure of any".

2 Subs. by s. 162, *ibid*, for "such distress".

3 Subs. by s. 162, *ibid*, for "property distrained".

4 Form XXXVIIA ins. by s. 162, *ibid*.

5 The words "until the day of" rep. by s. 5 of the Code of Criminal Procedure (Second Amendment) Act, 1923 (37 of 1923).

6 Subs. by s. 5, *ibid*, for "on that day", "on the said day of next" and "on the day of next".

ment), unless the said fine be sooner paid ; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER.

(*See section 485.*)

To (*name and description of officer of Court*).

WHEREAS (*name and description*), being summoned (*or* brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (*or* certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*) ;

This is to authorize and require you to take the said (*name*) into custody, and him safely to keep in your custody for the space of days, unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE.

(*See section 488.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [or his child (*name*), who is by reason of (*state the reason*) unable to maintain herself (*or* himself)] and to have neglected (*or* refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees : and whereas it has been further proved that the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of : And thereupon an order was made adjudging him to undergo simple (*or* rigorous) imprisonment in the said Jail for the period of ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody in the said Jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

(*Schedule V.—Forms.*)

XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY [1][ATTACHMENT] AND SALE.

(*See section 488.*)

To (*name and designation of the Police-officer or other person to execute the warrant*).

WHEREAS an order has been duly made requiring (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees , and whereas the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of ;

This is to authorize and require you to [2][attach any] moveable property belonging to the said (*name*) which may be found within the district of , and if within (*state the number of days or hours allowed*) next after [3][such attachment] the said sum shall not be paid (*or* forthwith), to sell the moveable [4][property attached], or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(*See sections 496 and 499.*)

I, (*name*), of (*place*), being brought before the Magistrate of (*as the case may be*) charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge, and, should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me ; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, ~~Empress of India~~, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

I hereby declare myself (*or* We jointly and severally declare ourselves and each of us) surety (*or* sureties) for the said (*name*) that he shall attend at the Court of on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him, and, in case of his making default therein, I bind myself (*or* we bind ourselves) to forfeit to Her Majesty the Queen, ~~Empress of India~~, the sum of rupees

Dated this day of 18 .

(*Signature.*)

---

[1] Subs. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "distress".

[2] Subs. by s. 162, *ibid*, for "make distress by seizure of any".

[3] Subs. by s. 162, *ibid*, for "such distress".

[4] Subs. by s. 162, *ibid*, for "property distrained".

(*Schedule V.—Forms.*)

XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See section 500.*)

To the Superintendent (*or* Keeper) of the Jail at .
(*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (*or* sureties) duly executed a bond under section 499 of the Code of Criminal Procedure ;

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(*See section 514.*)

To the Police-officer in charge of the Police-station at .

WHEREAS (*name, description and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen, ~~Empress of India,~~ the sum of rupees (*the penalty in the bond*) ; and whereas the said (*name of person*) has, ~~on due~~ notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him ;

This is to authorize and require you to attach any moveable property of the said (*name*) that you may find within the district of , by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLV.—NOTICE TO SURETY ON BREACH OF A BOND.

(*See section 514.*)

To of .

WHEREAS on the day of 18 , you became surety for (*name*) of (*place*) that he should appear before this Court on the day of and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, ~~Empress of India~~ ; and whereas the said (*name*) has failed to appear before ~~this~~ Court and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

(*Schedule V.—Forms.*)

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To of .

WHEREAS on the day of 18 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, ~~Empress of India~~ ; and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited ;

You are hereby required to pay the said penalty of rupees , or to show cause within days why it should not be paid.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY.

(*See section 514.*)

To of .

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen, ~~Empress of India~~, the sum of rupees (*the penalty in the bond*) ;

This is to authorize and require you to attach any moveable property of the said (*name*) which you may find within the district of , by seizure and detention ; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at .

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of (*state the condition of the bond*) and the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, ~~Empress of India~~ ; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the Civil Jail for (*specify the period*) ;

(*Schedule V.—Forms.*)

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody with this warrant and him safely to keep in the said Jail for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To (*name, description and address*).

WHEREAS on the day of 18 , you entered into a bond not to commit, etc., (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded ;

You are hereby called upon to pay the said penalty of rupees , or to show cause before me within days why payment of the same should not be enforced against you.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

L.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To (*name and designation of Police-officer*), at the Police-station of .

WHEREAS (*name and description*) did, on the day of 18 , enter into a bond for the sum of rupees binding himself not to commit a breach of the peace, etc. (*as in the bond*), and proof of the forfeiture of the said bond has been given before me and duly recorded ; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum ;

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same ; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

LI.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at .

WHEREAS proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Her Majesty the Queen, ~~Empress of India~~, the sum of rupees ; and whereas the said (*name*) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so,

(*Schedule V.—Forms.*)

and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*) ;

This is to authorize and require you, the said Superintendent (*or* Keeper) of the said Civil Jail, to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), and to return that warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

LII.—WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To the Police-officer in charge of the Police-station at .

WHEREAS (*name, description and address*) did, on the day of 18 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*), and proof has been given before me and duly recorded of the commission by the said (*name*) of the offence of whereby the said bond has been forfeited ; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum ;

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

LIII.—WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at .

WHEREAS (*name, description and address*) did, on the day of 18 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*) and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen, ~~Empress of India~~, the sum of rupees , ~~and whereas he has failed to~~ pay the said sum or to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*) ;

This is to authorize and require you, the Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

THE INDIAN POST OFFICE ACT, 1898.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent, application and commencement.
2. Definitions.
3. Meanings of "in course of transmission by post" and "delivery".

CHAPTER II.

PRIVILEGE AND PROTECTION OF THE GOVERNMENT.

4. Exclusive privilege of conveying letters reserved to the Government.
5. Certain persons expressly forbidden to convey letters.
6. Exemption from liability for loss, misdelivery, delay or damage.

CHAPTER III.

POSTAGE.

7. Power to fix rates of inland postage.
8. Power to make rules as to payment of postage and fees in certain cases.
9. Power to make rules as to registered newspapers.
10. Power to declare rates of foreign postage.
11. Liability for payment of postage.
12. Recovery of postage and other sums due in respect of postal articles.
13. Customs-duty paid by the Post Office to be recoverable as postage.
14. Post Office marks *primâ facie* evidence of certain facts denoted.
15. Official mark to be evidence of amount of postage.

CHAPTER IV.

POSTAGE STAMPS.

16. Provision of postage stamps and power to make rules as to them.
17. Postage stamps to be deemed to be stamps for the purpose of revenue.

CHAPTER V.

Conditions of Transmission of Postal Articles.

Sections.

18. Re-delivery to sender of postal article in course of transmission by post.
19. Transmission by post of anything injurious prohibited.
20. Transmission by post of anything indecent, etc., prohibited.
21. Power to make rules as to transmission by post of postal articles.
22. Power to postpone despatch or delivery of certain postal articles.
23. Power to deal with postal articles posted in contravention of Act.
24. Power to deal with postal articles containing goods contraband or liable to duty.
24A. Power to deliver such articles to Customs authority.
25. Power to intercept notified goods during transmission by post.
26 Power to intercept postal articles for public good.
27. Power to deal with postal articles from abroad bearing fictitious or previously used stamps.
27A. Prohibition of transmission by post of certain newspapers.
27B. Power to detain newspapers and other articles being transmitted by post.
27C. Procedure for disposal by High Court of applications for release of newspapers and articles so detained.
27D. Jurisdiction barred.

CHAPTER VI.

Registration, Insurance and Value-payable Post.

28. Registration of postal articles.
29. Power to make rules as to registration.
30. Insurance of postal articles.
31. Power to require insurance of postal articles.
32. Power to make rules as to insurance.
33. Liability in respect of postal articles insured.
34. Transmission by post of value-payable postal articles.
35. Power to make rules as to value-payable postal articles.
36. Power to give effect to arrangements with other countries.

CHAPTER VII.

Undelivered Postal Articles.

37. Power to make rules as to disposal of undelivered postal articles.
38. Disposal of undelivered postal articles at office of Post Master General.
39. Final disposal of undelivered postal articles.

CHAPTER VIII.

Ship Letters.

Sections.

40. Duty of master of ship, departing from any port in British India and not being a mail ship, to convey mail bags.

41. Duty of master of ship arriving at any port in British India in respect of postal articles and mail bags on board.

42. Allowance of gratuities for conveyance of postal articles by ships other than mail ships.

CHAPTER IX.

Money Orders.

43. Power to maintain money order system and to make rules as to remittances thereby.

44. Power for remitter to recall money order or alter name of payee.

45. Power to provide for the issue of postal orders.

46. Power to give effect to arrangements with other countries.

47. Recovery of money order paid to the wrong person.

48. Exemption from liability in respect of money orders.

CHAPTER X.

Penalties and Procedure.

Offences by Officers of the Post Office.

49. Penalty for misconduct of person employed to carry or deliver mail bags or postal articles.

50. Penalty for voluntary withdrawal from duty, without permission or notice, of person employed to carry or deliver mail bags or postal articles.

51. Penalty for making false entry in register kept by person employed to carry or deliver postal articles.

52. Penalty for theft, dishonest misappropriation, secretion, destruction, or throwing away, of postal articles.

53. Penalty for opening, detaining or delaying postal articles.

54. Penalty for fraud in connection with official marks and for receipt of excess postage.

55. Penalty for fraudulently preparing, altering, secreting or destroying Post Office documents.

SECTIONS.

56. Penalty for fraudulently sending unpaid postal articles.
57. Punishment of offences committed in India outside British India.

Other Offences.

58. Penalty for contravention of section 4.
59. Penalty for contravention of section 5.
60. Penalty for breach of rules under section 16.
61. Penalty for contravention of section 19 or 20.
62. Penalty for defiling or injuring post office letter-boxes.
63. Penalty for affixing without authority thing to, or painting, tarring or disfiguring, post office or post office letter-box.
64. Penalty for making false declaration.
65. Penalty for master of ship failing to comply with the provisions of section 40 or 41.
66. Penalty for detention of letters on board vessel arriving in port.
67. Penalty for detaining mails or opening mail bag.
68. Penalty for retaining postal articles wrongly delievered or mail bags.
69. Penalty for unlawfully diverting letters.

General.

70. Penalty for abetting, or attempting to commit, offences under Act.
71. Property in cases of offences to be laid in the Post Office.
72. Authority for prosecutions under certain sections of Act.

CHAPTER XI.

SUPPLEMENTAL.

73. Zamindari and other district posts.
74. General power to make rules and provisions as to rules under Act.
75. Delegation of powers, other than rule-making powers, to Director General.
76. [*Repealed.*]
77. Saving.

THE FIRST SCHEDULE.—INLAND POSTAGE RATES.
THE SECOND SCHEDULE.—[*Repealed.*]

apter I.—Preliminary.)

T No. VI OF 1898.[1]

[*22nd March, 1898.*]

An Act to consolidate and amend the Law relating to the Post Office in India.

WHEREAS it is expedient to consolidate and amend the law relating to the Post Office in India ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent, application and commencement.

1. (*1*) This Act may be called the Indian Post Office Act, 1898.

(*2*) It extends to ~~the whole of British India~~, inclusive of [2] * * ~~British Baluchistan~~, the Santhal Parganas and the Pargana of Spiti ; and it applies also to—

(*a*) ~~all Native Indian subjects of Her Majesty in any place without and beyond British India~~ ;

(*b*) all other British subjects within ~~the territories of any Native Prince or Chief in India~~ ; and

(*c*) all servants of the Queen, whether British subjects or not, within the territories of any Native Prince or Chief in India.

(*3*) It shall come into force on the first day of July, 1898

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression "Director General" means the Director General of [3][Posts and Telegraphs] :

(*b*) the expression "inland," used in relation to a postal article, means—

(*i*) posted in ~~British India~~ and addressed to any place in ~~British India~~ or to any place for which a post office is established by [4][the Central Government ~~or the Crown Representative~~] beyond the limits of ~~British India~~ ; or

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 385 ; for Report of the Select Committee, *see ibid.*, 1898, Pt. V, p. 211 ; for Proceedings in Council, *see ibid.*, 1897, Pt. VI, p. 249 ; *ibid.*, 1898, Pt. VI, pp. 23, 99 and 285 to 289.

This Act has been declared to be in force in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (I of 1900) ; in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

As to rules made under the Post Office Act, which are now in force or are in force from time to time, *see* the Indian Postal Guide, which is published by the Post Office half-yearly ; *see* also Gazette of India, 1926, Pt. I, p. 1224.

2 The words "Upper Burma" rep. by the Burma Laws Act, 1898 (13 of 1898), s. 18 and Sch. V.

3 Subs. by the Indian Post Office and Telegraph (Amendment) Act, 1914 (14 of 1914), s. 3 (*i*), for "the Post Office of India".

4 Subs. by the A. O. for "the G. G. in C.".

(*ii*) posted at any post office established by [1][the Central Government ~~or the Crown Representative~~] beyond the limits of ~~British India~~ and addressed to any place for which any such post office is established or to any place in ~~British India~~ :

[2][Provided that the expression "inland" shall not apply to any class of postal articles which may be specified in this behalf by the [3][Central Government] by notification in the [4][Official Gazette], when posted in or at or addressed to any places or post offices which may be described in such notification :]

(*c*) the expression "mail bag" includes a bag, box, parcel or any other envelope or covering in which postal articles in course of transmission by post are conveyed, whether it does or does not contain any such article :

(*d*) the expression "mail ship" means a ship employed for carrying mails, pursuant to contract or continuing arrangement, by the [5][Central Government] or Her Majesty's Government or the Government of any British possession or foreign country :

(*e*) the expression "officer of the Post Office" includes any person employed in any business of the Post Office or on behalf of the Post Office :

(*f*) the expression "postage" means the duty chargeable for the transmission by post of postal articles :

(*g*) the expression "postage stamp" means any stamp provided by the [3][Central Government] for denoting postage or other fees or sums payable in respect of postal articles under this Act, and includes adhesive postage stamps and stamps printed, embossed, impressed or otherwise indicated on any envelope, wrapper, postcard or other article :

(*h*) the expression "post office" includes every house, building, room, carriage or place used for the purposes of the Post Office, and every letter-box provided by the Post Office for the reception of postal articles :

(*i*) the expression "postal article" includes a letter, postcard, newspaper, book, pattern or sample packet, parcel and every article or thing transmissible by post :

---

1 Subs. by the A. O. for "the G. G. in C.".
2 Ins. by the Indian Post Office (Amendment) Act, 1903 (2 of 1903), s 2.
3 Subs. by the A. O. for "G. G. in C.".
4 Subs. by the A. O. for "Gazette of India".
5 Subs. by the A. O. for "G. of I.".

(*j*) the expression "Post Master General" includes a Deputy Post Master General or other officer exercising the powers of a Post Master General : and

(*k*) the expression "Post Office" means the department [1][established for the purpose of carrying the provisions of this Act into effect and] presided over by the Director General.

3. For the purposes of this Act,—

Meanings of "in course of transmission by post" and "delivery".

(*a*) a postal article shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the addressee or of its being returned to the sender or otherwise disposed of under Chapter VII :

(*b*) the delivery of a postal article of any description to a postman or other person authorised to receive postal articles of that description for the post shall be deemed to be a delivery to a post office : and

(*c*) the delivery of a postal article at the house or office of the addressee, or to the addressee or his servant or agent or other person considered to be authorised to receive the article according to the usual manner of delivering postal articles to the addressee, shall be deemed to be delivery to the addressee.

CHAPTER II.

Privilege and Protection of the Government.

Exclusive privilege of conveying letters reserved to the Government.

4. (*1*) Wherever within ~~British India~~ posts or postal communications are established by the [2][Central Government], the [2][Central Government] shall have the exclusive privilege of conveying by post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases, that is to say :—

(*a*) letters sent by a private friend in his way, journey or travel, to be delivered by him to the person to whom they are directed, without hire, reward or other profit or advantage for receiving, carrying or delivering them ;

(*b*) letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose ; and

---

1 Ins. by the Indian Post Office and Telegraph (Amendment) Act, 1914 (14 of 1914), s. 3.

2 Subs. by the A. O. for "G. G. in C.". (1937)

(*c*) letters solely concerning goods or property, sent either by sea or by land to be delivered with the goods or property which the letters concern, without hire, reward or other profit or advantage for receiving, carrying or delivering them :

Provided that nothing in the section shall authorise any person to make a collection of letters excepted as aforesaid for the purpose of sending them otherwise than by post.

(*2*) For the purposes of this section and section 5, the expression "letters" includes postcards.

Certain persons expressly forbidden to convey letters.

5. Wherever within ~~British India~~ posts or postal communications are established by the [1][Central Government], the following persons are expressly forbidden to collect, carry, tender or deliver letters, or to receive letters for the purpose of carrying or delivering them, although they obtain no hire, reward or other profit or advantage for so doing, that is to say :—

(*a*) common carriers of passengers or goods, and their servants or agents, except as regards letters solely concerning goods in their carts or carriages ; and

(*b*) owners and masters of vessels sailing or passing on any river or canal in ~~British India~~, or between any ports or places in ~~British India~~, and their servants or agents, except as regards letters solely concerning goods on board, and except as regards postal articles received for conveyance under Chapter VIII.

Exemption from liability for loss, misdelivery, delay or damage.

6. [2][The Crown] shall not incur any liability by reason of the loss, misdelivery or delay of, or damage to, any postal article in course of transmission by post, except in so far as such liability may in express terms be undertaken by the [1][Central Government] as hereinafter provided ; and no officer of the Post Office shall incur any liability by reason of any such loss, misdelivery, delay or damage, unless he has caused the same fraudulently or by his wilful act or default.

CHAPTER III.

POSTAGE.

Power to fix rates of inland postage.

7. (*1*) The [1][Central Government] may, by notification in the [3][Official Gazette], fix the rates of postage and other sums to be charged in respect of postal articles sent by the inland post under this Act, and may make rules as to the scale of weights, terms and conditions subject to which the rates so fixed shall be charged :

1 Subs. by the A. O. for "G. G. in C.".
2 Subs. by the A. O. for "The Secretary of State for India in Council".
3 Subs. by the A. O. for "Gazette of India".

Provided that the highest rate of postage, when prepaid, shall not exceed the rate set forth for each class of postal articles in the first schedule.

(*2*) Unless and until such notification as aforesaid is issued, the rates set forth in the said schedule shall be the rates chargeable under this Act.

(*3*) The [1][Central Government] may, by notification in the [2][Official Gazette], declare what packets may be sent by the inland post as book, pattern and sample packets within the meaning of this Act.

Power to make rules as to payment of postage and fees in certain cases.

8. The [1][Central Government] may, by rule,—

(*a*) require the prepayment of postage on inland postal articles or any class of inland postal articles, and prescribe the manner in which prepayment shall be made ;

(*b*) prescribe the postage to be charged on inland postal articles when the postage is not prepaid or is insufficiently prepaid ;

(*c*) provide for the redirection of postal articles and the transmission by post of articles so redirected, either free of charge or subject to such further charge as may be specified in the rules ; and

(*d*) prescribe the fees to be charged for the "express delivery" of postal articles, in addition to, or instead of, any other postage chargeable thereon under this Act.

Explanation.—"Express delivery" means delivery by a special messenger or conveyance.

Power to make rules as to registered newspapers.

9. (*1*) The [1][Central Government] may make rules providing for the registration of newspapers for transmission by inland post as registered newspapers.

(*2*) For the purpose of such registration, every publication, consisting wholly or in great part of political or other news, or of articles relating thereto, or to other current topics, with or without advertisements, shall be deemed a newspaper, subject to the following conditions, namely :—

(*a*) that it is published in numbers at intervals of not more than thirty-one days ; and

(*b*) that it has a *bonâ fide* list of subscribers.

(*3*) An extra or supplement to a newspaper, bearing the same date as the newspaper and transmitted therewith, shall be deemed to be part of the newspaper :

Provided that no such extra or supplement shall be so deemed unless it consists wholly or in great part of matter like that of the newspaper

---

1 Subs. by the A. O. for "G. G. in C.".
2 Subs. by the A. O. for "Gazette of India".

and has the title and date of publication of the newspaper printed at the top of each page.

Explanation.—Nothing in this section or in the rules thereunder shall be construed to render it compulsory to send newspapers by the inland post.

Power to declare rates of foreign postage.

10. (*1*) Where arrangements are in force with the United Kingdom, or with any British possession or foreign country, for the transmission by post of postal articles between ~~British India~~ and the United Kingdom or such possession or country, the [1][Central Government] may, in conformity with the provisions of such arrangements, declare what postage rates and other sums shall be charged in respect of such postal articles, and may make rules as to the scale of weight, terms and conditions subject to which the rates so declared shall be charged.

(*2*) Unless and until such declaration as aforesaid is made, the existing rates and regulations shall continue in force.

Liability for payment of postage.

11. (*1*) The addressee of a postal article on which postage or any other sum chargeable under this Act is due, shall be bound to pay the postage or sum so chargeable on his accepting delivery of the postal article, unless he forthwith returns it unopened :

Provided that, if any such postal article appears to the satisfaction of the Post Master General to have been maliciously sent for the purpose of annoying the addressee, he may remit the postage.

(*2*) If any postal article on which postage or any other sum chargeable under this Act is due, is refused or returned as aforesaid, or if the addressee is dead or cannot be found, then the sender shall be bound to pay the postage or sum due thereon under this Act.

Recovery of postage and other sums due in respect of postal articles.

12. If any person refuses to pay any postage or other sum due from him under this Act in respect of any postal article, the sum so due may, on application made by an officer of the Post Office authorised in this behalf by the written order of the Post Master General, be recovered for the use of the Post Office from the person so refusing, as if it were a fine imposed under this Act by any Magistrate having jurisdiction where that person may for the time being be resident ; and the Post Master General may further direct that any other postal article, not being on Her Majesty's service, addressed to that person shall be withheld from him until the sum so due is paid or recovered as aforesaid.

Customs-duty paid by the Post Office to be recoverable as postage.

13. When a postal article, on which any duty of customs is payable, has been received by post from any place beyond the limits of ~~British India~~, and the duty has been paid by the postal authorities at any customs-port or elsewhere, the amount of the duty shall be recoverable as if it were postage due under this Act.

---

1 Subs. by the A. O. for "G. G. in C.". 1937

14. In every proceeding for the recovery of any postage or other sum alleged to be due under this Act in respect of a postal article,— Post Office marks *prima facie* evidence of certain facts denoted.

(*a*) the production of the postal article, having thereon the official mark of the Post Office denoting that the article has been refused, or that the addressee is dead or cannot be found, shall be *primâ facie* evidence of the fact so denoted, and

(*b*) the person from whom the postal article purports to have come shall, until the contrary is proved, be deemed to be the sender thereof.

15. The official mark on a postal article denoting that any postage or other sum is due in respect thereof to the Post Office of ~~British India~~ or to the Post Office of the United Kingdom or of any British possession or foreign country, shall be *primâ facie* evidence that the sum denoted as aforesaid is so due. Official mark to be evidence of amount of postage.

CHAPTER IV.

Postage Stamps.

16. (*1*) The [1][Central Government] shall cause postage stamps to be provided of such kinds and denoting such values as [2][it] may think necessary for the purposes of this Act. Provision of postage stamps and power to make rules as to them.

(*2*) The [1][Central Government] may make rules as to the supply, sale and use of postage stamps.

(*3*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) fix the price at which postage stamps shall be sold ;

(*b*) declare the classes of postal articles in respect of which postage stamps shall be used for the payment of postage or other sums chargeable under this Act ;

(*c*) prescribe the conditions with regard to perforation, defacement and all other matters subject to which postage stamps may be accepted or refused in payment of postage or other sums ;

(*d*) regulate the custody, supply and sale of postage stamps ,

(*e*) declare the persons by whom and the terms and conditions subject to which postage stamps may be sold ; and

(*f*) prescribe the duties and remuneration of persons selling postage stamps.

[3][**17.** (*1*)] Postage stamps provided under section 16 shall be deemed to be stamps issued by Government for the purpose of revenue within the meaning of the Indian Penal Code, and, subject to the other provisions Postage stamps to be deemed to be stamps for

XLV of 1860.

1 Subs. by the A. O. for "G. G. in C.".

2 Subs. by the A. O. for "he".

3 The original s. 17 was re-numbered as s. 17 (*1*) by the Indian Post Office (Amendment) Act, 1924 (16 of 1924), s. 2.

the purpose of revenue.

of this Act, shall be used for the prepayment of postage or other sums chargeable under this Act in respect of postal articles, except where the [1][Central Government] directs that prepayment shall be made in some other way.

[2][(*2*) Where the [1][Central Government] has directed that prepayment of postage or other sums chargeable under this Act in respect of postal articles may be made by prepaying the value denoted by the impressions of stamping machines issued under [3][its] authority, the impression of any such machine shall likewise be deemed to be a stamp issued by Government for the purpose of revenue, within the meaning of the Indian Penal Code.]

XLV of 1860.

CHAPTER V.

Conditions of Transmission of Postal Articles.

Redelivery to sender of postal article in course of transmission by post.

18. (*1*) The [1][Central Government] may, by rule, provide for the redelivery to the sender, without reference to the consent of the addressee and subject to such conditions (if any) as may be deemed fit, of any postal article in course of transmission by post.

(*2*) Save as provided by any rules that may be made under sub-section (*1*), the sender shall not be entitled to recall a postal article in course of transmission by post.

Transmission by post of anything injurious prohibited.

19. (*1*) Except as otherwise provided by rule and subject to such conditions as may be prescribed thereby, no person shall send by post any explosive, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure postal articles in course of transmission by post or any officer of the Post Office.

(*2*) No person shall send by post any article or thing which is likely to injure postal articles in course of transmission by post or any officer of the Post Office.

Transmission by post of anything indecent, etc., prohibited.

20. No person shall send by post—

(*a*) any indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article, or

(*b*) any postal article having thereon, or on the cover thereof, any words, marks or designs of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character.

---

1 Subs. by the A. O. for "G. G. in C.".
2 Ins. by the Indian Post Office (Amendment) Act, 1924 (16 of 1924), s. 2.
3 Subs. by the A. O. for "his".

(*Chapter V.—Conditions of Transmission of Postal Articles.*)

21. [1][(*1*) The [2][Central Government] may make rules as to the transmission of articles by post.

Power to make rules as to transmission by post of postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) specify articles which may not be transmitted by post ;

(*b*) prescribe conditions on which articles may be transmitted by post ;

(*c*) provide for the detention and disposal of articles in course of transmission by post in contravention of rules made under clause (*a*) or clause (*b*) ;

(*d*) provide for the granting of receipts for, and the granting and obtaining of certificates of, posting and delivery of postal articles and the sums to be paid, in addition to any other postage, for such receipts and certificates ; and

(*e*) regulate covers, forms, dimensions, maximum weights, and enclosures, and the use of postal articles, other than letters, for making communications.]

(*3*) Postal articles shall be posted and delivered at such times and in such manner as the Director General may, by order, from time to time appoint.

22. (*1*) Where the despatch or delivery from a post office of letters would be delayed by the despatch or delivery therefrom at the same time of book, pattern or sample packets and parcels, or any of them, such packets or parcels, or any of them, may, subject to such rules as the [2][Central Government] may make in this behalf, be detained in the Post Office so long as may be necessary.

Power to postpone despatch or delivery of certain postal articles.

(*2*) Where separate parcel posts are established, parcels may be forwarded and conveyed by them, being detained, if necessary, in the Post Office for that purpose.

23. (*1*) Any postal article sent by post in contravention of any of the provisions of this Act may be detained and either returned to the sender or forwarded to destination, in each case charged with such additional postage (if any) as the [2][Central Government] may, by rule, direct.

Power to deal with postal articles posted in contravention of Act.

(*2*) Any officer in charge of a post office or authorised by the Post Master General in this behalf may open or unfasten any newspaper or any book, pattern or sample packet, in course of transmission by post, which he suspects to have been sent by post in contravention of [3][section 20, clause (*a*) or of] section 21 or of any of the provisions of this Act relating to postage.

---

1 Subs. by the Indian Post Office (Amendment) Act, 1912 (3 of 1912), s. 2, for the original sub-sections (*1*) and (*2*).

2 Subs. by the A. O., for "G. G. in C.".

3 Ins. by Act 3 of 1912, s. 3.

(*3*) Notwithstanding anything in sub-section (*1*)—

(*a*) any postal article sent by post in contravention of the provisions of section 19 may, under the authority of the Post Master General, if necessary, be opened and destroyed ; and

[1][(*b*) any postal article sent by post in contravention of the provisions of section 20 may be disposed of in such manner as the [2][Central Government] may by rule direct].

Power to deal with postal articles containing goods contraband or liable to duty.

24. [3][Except as otherwise provided in this Act, where a postal article suspected to contain any goods of which the import by post or the transmission by post is prohibited by or under any enactment for the time being in force,] or anything liable to duty, is received for delivery at a post office, the officer in charge of the post office shall send a notice in writing to the addressee inviting him to attend, either in person or by agent, within a specified time at the post office, and shall in the presence of the addressee or his agent, or if the addressee or his agent fails to attend as aforesaid then in his absence, open and examine the postal article :

Provided, first, that, if the Director General so directs in the case of any post office or class of post offices, the officer in charge of the post office shall call in two respectable persons as witnesses before he opens a postal article in the absence of the addressee or his agent :

Provided, secondly, that in all cases a postal article, after being opened under this section, shall be delivered to the addressee, unless it is required for the purpose of any further proceeding under this or any other law or enactment for the time being in force, and that the opening of the postal article and the circumstances connected therewith shall be immediately reported to the Post Master General.

[4]* * * * * * *

Power to deliver such articles to Customs authority.

[5][**24A.** The [2][Central Government] may, by general or special order, empower any officer of the Post Office, specified in such order, to deliver any postal article, received from beyond the limits of ~~British India~~ and suspected to contain anything liable to duty, to such Customs authority as may be specified in the said order, and such Customs authority shall deal with such article in accordance with the provisions of the Sea Customs Act, 1878, or of any other law for the time being in force.] VIII of 1878.

---

1 Subs. by the Indian Post Office (Amendment) Act, 1912 (3 of 1912), s. 3 (*2*) for the original clause.

2 Subs. by the A. O. for "G. G. in C.".

3 Subs. by Act 3 of 1912, s. 4, for "Where a postal article suspected to contain any contraband goods".

4 The third proviso was rep. by the Indian Post Office (Amendment) Act, 1921 (15 of 1921), s. 2.

5 Ins. by s. 3, *ibid.*

(*Chapter V.—Conditions of Transmission of Postal Articles.*)

Power to intercept notified goods during transmission by post.

25. Where a notification has been published under section 19 of the VIII of 1878. Sea Customs Act, 1878, in respect of any goods of any specified description, [1][or where the import or export into or from ~~British India~~ of goods of any specified description has been prohibited or restricted by or under any other enactment for the time being in force], any officer of the Post Office empowered in this behalf by the [2][Central Government] may search, or cause search to be made, for any such goods in course of transmission by post, and shall deliver [3][all postal articles reasonably believed or found to contain such goods] to such officer as the [2][Central Government] may appoint in this behalf, and such goods may be disposed of in such manner as the [2][Central Government] may direct. [4][In carrying out any such search, such officer of the Post Office may open or unfasten, or cause to be opened or unfastened, any newspaper or any book, pattern or sample packet in course of transmission by post.]

Power to intercept postal articles for public good.

26. (*1*) On the occurrence of any public emergency, or in the interest of the public safety or tranquillity, the [2][Central Government], or a [5][Provincial Government], or any officer specially authorised in this behalf [6][by the Central or the Provincial Government], may, by order in writing, direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained, or [7][shall be disposed of in such manner as the authority issuing the order may direct].

(*2*) If any doubt arises as to the existence of a public emergency, or as to whether any act done under sub-section (*1*) was in the interest of the public safety or tranquillity, a certificate [8][of the Central Government or, as the case may be, of the Provincial Government] shall be conclusive proof on the point.

Power to deal with postal articles from abroad bearing fictitious or previously used stamps.

27. (*1*) Where a postal article is received by post from any place beyond the limits of ~~British India~~—

(*a*) bearing a fictitious postage stamp, that is to say, any facsimile or imitation or representation of a postage stamp, or

(*b*) purporting to be prepaid with any postage stamp which has been previously used to prepay any other postal article,

1 Ins. by the Dangerous Drugs Act, 1930 (2 of 1930), s. 40 and Sch. II.
2 Subs. by the A. O. for "G. G. in C.".
3 Subs. by the Indian Post Office (Amendment) Act, 1912 (3 of 1912), s. 5, for "all such goods found".
4 Ins. by s. 5, *ibid.*
5 Subs. by the A. O. for "L. G.".
6 Subs. by the A. O. for "by the G. G. in C.".
7 Subs. by Act 3 of 1912, s. 6, for "shall be delivered to the Govt. or to an officer thereof mentioned in the order, to be disposed of in such manner as the G. G. in C. may direct".
8 Subs. by the A. O. for "signed by a Secretary to the G. of I. or to the L. G.".

the officer in charge of the post office at which the postal article is received, shall send a notice to the addressee inviting him to attend, either in person or by agent, within a specified time at the post office to receive delivery of the postal article.

(*2*) If the addressee or his agent attends at the post office within the time specified in the notice and consents to make known to the officer in charge of the post office the name and address of the sender of the postal article and to redeliver to the officer aforesaid the portion of the postal article which bears the address and the fictitious or previously used postage stamp, or, if the postal article is inseparable from the stamp, the entire postal article, the postal article shall be delivered to the addressee or his agent.

(*3*) If the addressee or his agent fails to attend at the post office within the time specified in the notice, or, having attended within that time, refuses to make known the name and address of the sender or to redeliver the postal article or portion thereof as required by sub-section (*2*), the postal article shall not be delivered to him, but shall be disposed of in such manner as the [1][Central Government] may direct.

Explanation.—For the purposes of this section, the expression "postage stamp" includes any postage stamp for denoting any rate or duty of postage of any part of Her Majesty's dominions or of any [2][Indian State] or foreign country [3][and the impression of any stamping machine provided or authorised for the like purpose by or under the authority of the Government of such part, State or country].

Prohibition of transmission by post of certain newspapers.

[4][**27A.** No newspaper printed and published in ~~British India~~ (6) without conforming to the rules laid down in the Press and Registration of Books Act, 1867, shall be transmitted by post. XXV of 1867.

Power to detain newspapers and other articles being transmitted by post.

[5]**27B.** (*1*) Any officer of the Post Office authorised by the Post Master General in this behalf may detain any postal article in course of transmission by post which he suspects to contain—

(*a*) (i) any newspaper or book as defined in the Press and Registration of Books Act, 1867 ; or XXV of 1867.

(ii) any document ;

---

1 Subs. by the A. O. for "G. G. in C.".

2 Subs. by the A. O. for "Native State".

3 Ins. by the Indian Post Office (Amendment) Act, 1924 (16 of 1924), s. 3.

4 Ss. 27A to 27D were ins. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 6 and Sch. IV.

5 As to the application of ss. 27B to 27D in respect of book, newspaper or other document containing matter defamatory of a Ruler of a State or Minister of such Ruler, etc., and tending to prejudice the relation between His Majesty's Government and the Government of such State, *see* s. 3 of the Foreign Relations Act, 1932 (12 of 1932) which further provides that for such application of these sections, the provisions of s. 3 of Act 12 of 1932 shall be construed as if for the words "Provincial Government", wherever they occur in these ss., the words "Central Government" were substituted.

containing any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code ; or

XLV of 1860.

(*b*) any newspaper as defined in the Press and Registration of Books Act, 1867, edited, printed or published otherwise than in conformity with the rules laid down in that Act ;

XXV of 1867.

and shall deliver any postal article so detained to such officer as the [1][Provincial Government] may appoint in this behalf.

(*2*) Any officer detaining any postal article under the provisions of sub-section (*1*) shall forthwith send by post to the addressee of such article notice of the fact of such detention.

(*3*) The [1][Provincial Government] shall cause the contents of any postal article detained under sub-section (*1*) to be examined, and, if it appears to the [1][Provincial Government] that the article contained any newspaper, book or other document, of the nature described in clause (*a*) or clause (*b*) of sub-section (*1*), may pass such orders as to the disposal of the article and its contents as it may deem proper, and, if it does not so appear, shall release the article and its contents, unless the same be otherwise liable to seizure under any law for the time being in force :

Provided that any person interested in any artcile detained under the provisions of clause (*a*) of sub-section (*1*) may, within two months from the date of such detention, apply to the [1][Provincial Government] for release of the same, and the [1][Provincial Government] shall consider such application and pass such orders thereon as it may deem to be proper :

Provided also that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the article and its contents on the ground that the article did not contain any newspaper, book or other document containing any seditious matter.

(*4*) In this section "document" includes also any painting, drawing or photograph, or other visible representation.

Procedure for disposal by High Court of applications for release of newspapers and articles so detained.

27C. Every application made under the second proviso to sub-section (*3*) of section 27B shall be heard and determined in the manner provided by sections 99D to 99F of the Code of Criminal Procedure, 1898, by a Special Bench of the High Court constituted in the manner provided by section 99C of that Code.

V of 1898.

Jurisdiction barred.

27D. No order passed or action taken under section 27B shall be called in question in any Court otherwise than in accordance with the second proviso to sub-section (*3*) of that section.]

---

1 Subs. by the A. O. for "L. G.". 1937

CHAPTER VI.

REGISTRATION, INSURANCE AND VALUE-PAYABLE POST.

Registration of postal articles.

28. The sender of a postal article may, subject to the other provisions of this Act, have the article registered at the post office at which it is posted, and require a receipt therefor ; and the [1][Central Government] may, by notification in the [2][Official Gazette], direct that, in addition to any postage chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the registration of postal articles.

Power to make rules as to registration.

29. (*1*) The [1][Central Government] may make rules as to the registration of postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare in what cases registration shall be required ;

(*b*) prescribe the manner in which the fees for registration shall be paid ; and

(*c*) direct that twice the fee for registration shall be levied on the delivery of a postal article required to be registered on which the fee for registration has not been prepaid.

(*3*) Postal articles made over to the Post Office for the purpose of being registered shall be delivered, when registered, at such times and in such manner as the Director General may, by order, from time to time appoint.

Insurance of postal articles.

30. The [1][Central Government] may, by notification in the [2][Official Gazette], direct—

(*a*) that any postal article may, subject to the other provisions of this Act, be insured at the post office at which it is posted, against the risk of loss or damage in course of transmission by post, and that a receipt therefor shall be granted to the person posting it ; and

(*b*) that, in addition to any postage and fees for registration chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the insurance of postal articles.

Power to require insurance of postal articles.

31. The [1][Central Government] may, by notification in the [2][Official Gazette], declare in what cases insurance shall be required, and direct that any postal article containing anything required to be insured, which has been posted without being insured, shall be returned to the sender or shall be delivered to the addressee, subject to the payment of such special fee as may be fixed by the notification :

---

1 Subs. by the A. O. for "G. G. in C.".
2 Subs. by the A. O. for "Gazette of India".

Provided that the levy of such special fee as aforesaid shall not impose any liability upon [1][the Central Government ~~or the Secretary of State~~] in respect of the postal article.

32. (*1*) The [2][Central Government] may make rules as to the insurance of postal articles. Power to make rules as to insurance.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare what classes of postal articles may be insured under section 30 ;

(*b*) fix the limit of the amount for which postal articles may be insured ; and

(*c*) prescribe the manner in which the fees for insurance shall be paid.

(*3*) Postal articles made over to the Post Office for the purpose of being insured shall be delivered, when insured, at such places and times and in such manner as the Director General may, by order, from time to time appoint.

33. Subject to such conditions and restrictions as the [2][Central Government] may, by rule, prescribe, [1][the Central Government] shall be liable to pay compensation, not exceeding the amount for which a postal article has been insured, to the sender thereof for the loss of the postal article or its contents, or for any damage caused to it in course of transmission by post : Liability in respect of postal articles insured.

Provided that the compensation so payable shall in no case exceed the value of the article lost or the amount of the damage caused.

34. The [2][Central Government] may, by notification in the [3][Official Gazette], direct that, subject to the other provisions of this Act and to the payment of fees at such rates as may be fixed by the notification, a sum of money specified in writing at the time of posting by the sender of a postal article shall be recoverable on the delivery thereof from the addressee, and that the sum, so recovered, shall be paid to the sender : Transmission by post of value-payable postal articles.

Provided that [4][neither the Central Government nor the Secretary of State shall] incur any liability in respect of the sum specified for recovery, unless and until that sum has been received from the addressee.

Explanation.—Postal articles sent in accordance with the provisions of this section may be described as " value-payable " postal articles.

35. (*1*) The [2][Central Government] may make rules as to the transmission by post of value-payable postal articles. Power to make rules.

1 Subs. by the A. O. for " the Secretary of State for India in Council ".
2 Subs. by the A. O. for " G. G. in C.".
3 Subs. by the A. O. for " Gazette of India ".
4 Subs. by the A. O. for " the Secretary of State for India in Council shall not ".

as to value-payable postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare what classes of postal articles may be sent as value-payable postal articles ;

(*b*) direct that no postal article shall be so sent unless the sender declares that it is sent in execution of a *bonâ fide* order received by him ;

(*c*) limit the value to be recovered on the delivery of any value-payable postal article ; [1]*

(*d*) prescribe the form of declaration to be made by the senders of value-payable postal articles, and the time and manner of the payment of fees ;

[2][(*e*) provide for the retention and repayment to the addressee in cases of fraud of money recovered on the delivery of any value-payable postal article ; and

(*f*) prescribe the fees to be charged for inquiries into complaints regarding the delivery of or payment for value-payable postal articles.]

(*3*) Postal articles shall be made over to the Post Office for the purpose of being sent as "value-payable" and shall be delivered, when so sent, at such times and in such manner as the Director General may, by order, from time to time appoint.

[3][(*4*) No suit or other legal proceeding shall be instituted against [4][the Central Government, ~~the Secretary of State~~] or any officer of the Post Office in respect of anything done, or in good faith purporting to be done, under any rule made under clause (*e*) of sub-section (*2*).]

Power to give effect to arrangements with other countries.

36. (*1*) Where arrangements are in force with the United Kingdom, or with any British possession, [5][Indian State] or foreign country, for the transmission by post of registered, insured or value-payable postal articles between ~~British India~~ and the United Kingdom or such possession, State or country, the [6][Central Government] may make rules to give effect to such arrangements.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the form of declaration to be made by the senders of such postal articles as aforesaid ; and

(*b*) the fees to be charged in respect thereof.

---

1 The word "and" rep. by the Indian Post Office (Amendment) Act, 1912 (3 of 1912), s. 7 (*1*).

2 Ins. by s. 7 (*1*), *ibid.*

3 Ins. by s. 7 (*2*), *ibid.*

4 Subs. by the A. O. for "the Secretary of State for India in Council".

5 Subs. by the A. O. for "Native State".

6 Subs. by the A. O. for "G. G. in C.".

CHAPTER VII.

UNDELIVERED POSTAL ARTICLES.

Power to make rules as to disposal of undelivered postal articles.

37. (*1*) The [1][Central Government] may make rules as to the disposal of postal articles which for any reason cannot be delivered (hereinafter referred to as "undelivered postal articles").

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the period during which undelivered postal articles at a post office shall remain in that office ; and

(*b*) provide for the publication of lists of undelivered postal articles, or of any class of undelivered postal articles.

(*3*) Every undelivered postal article, after being detained at a post office for the period prescribed by rule under the foregoing provisions of this section, shall be either forwarded, free of further charge, to the post office at which it was posted, for return to the sender, or sent to the office of the Post Master General.

Disposal of undelivered postal articles at office of Post Master General.

38. (*1*) Every postal article received at the office of the Post Master General under sub-section (*3*) of section 37 shall be dealt with as follows :—

(*a*) if practicable, it shall be redirected and forwarded by post to the addressee ; or,

(*b*) if it cannot be redirected and forwarded as aforesaid, it shall be opened by some officer, appointed by the Post Master General in this behalf and bound to secrecy, in order to ascertain the name and address of the sender.

(*2*) If the name and address of the sender are so ascertained, it shall be returned by post to the sender, free of further charge or subject to such further charge as the [1][Central Government] may, by rule, direct.

Final disposal of undelivered postal articles.

39 Undelivered postal articles which cannot be disposed of under the foregoing provisions, shall be detained in the office of the Post Master General for such further period (if any), and shall be dealt with in such manner, as the [1][Central Government] may, by rule, direct :

Provided that—

(*a*) letters and postcards shall be destroyed ;

(*b*) money or saleable property, not being of a perishable nature, found in any undelivered postal article, shall be detained for a period of one year in the office of the Post Master General, and, if on the expiration of that period no person has established his right thereto, shall, if money, be credited to the Post Office, and, if saleable property, be sold, the sale-proceeds being credited to the Post Office.

---

[1] Subs. by the A. O. for "G. G. in C.".

CHAPTER VIII.

SHIP LETTERS.

Duty of master of ship, departing from any port in British India and not being a mail ship, to convey mail bags.

40. The master of a ship, not being a mail ship, about to depart from any port in ~~British India~~ to any port within, or any port or place beyond, ~~British India~~, shall receive on board any mail bag tendered to him by any officer of the Post Office for conveyance, granting a receipt therefor in such form as the [1][Central Government] may, by rule, prescribe, and shall, without delay, deliver the same at the port or place of destination.

Duty of master of ship arriving at any port in British India in respect of postal articles and mail bags on board.

41. (*1*) The master of a ship arriving at any port in ~~British India~~ shall, without delay, cause every postal article or mail bag on board which is directed to that port and is within the exclusive privilege conferred on the [1][Central Government] by section 4, to be delivered either at the post office at that port or to some officer of the Post Office authorised in this behalf by the Post Master General.

(*2*) If there is on board any postal article or mail bag which is directed to any other place within ~~British India~~ and is within the exclusive privilege aforesaid, the master shall, without delay, report the fact to the officer in charge of the post office at the port of arrival and act according to the directions he may receive from such officer, and the receipt of such officer shall discharge him from all further responsibility in respect of the postal article or mail bag.

Allowance of gratuities for conveyance of postal articles by ships other than mail ships.

42. The [1][Central Government] may, by notification in the [2][Official Gazette], declare what gratuities shall be allowed to masters of ships, not being mail ships, in respect of postal articles received by them for conveyance on behalf of the Post Office ; and the master of a ship, not being a mail ship, about to leave any port in ~~British India~~ as aforesaid shall, if he receives on board a mail bag for conveyance, be entitled to demand and obtain immediately the amount of the gratuity payable under this section in respect of the mail bag and its contents.

CHAPTER IX.

MONEY ORDERS.

Power to maintain money order system and to make rules as to remittances thereby.

43. (*1*) The [1][Central Government] may provide for the remitting of small sums of money through the Post Office by means of money orders, and may make rules as to such money orders.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the limit of amount for which money orders may be issued ;

1 Subs. by the A. O. for "G. G. in C.".
2 Subs. by the A. O. for "Gazette of India".

(*b*) the period during which money orders shall remain current ; and

(*c*) the rates of commission or the fees to be charged on money orders or in respect thereof.

44. (*1*) Subject to such conditions as the [1][Central Government] may, by rules made under section 43, prescribe in respect of the levy of additional rates of commission or fees or any other matters, a person remitting money through the Post Office by means of a money order may require that the amount of the order, if not paid to the payee, be repaid to him, or be paid to such person other than the original payee as he may direct.

Power for remitter to recall money order or alter name of payee.

(*2*) If neither the payee nor the remitter of a money order can be found, and if within the period of one year from the date of the issue of the order no claim is made by such payee or remitter, the amount of such order shall not be claimable from the Government.

45. The [1][Central Government] may authorise the issue, in such form as may be suitable, of money orders, to be called postal orders or by such other designation as may be deemed appropriate, for certain fixed amounts, and may make rules as to the rates of commission to be charged thereon and the manner in which, and conditions subject to which, they may be issued, paid and cancelled :

Power to provide for the issue of postal orders.

Provided that no such order shall be issued for an amount in excess of ten rupees.

46. (*1*) Where arrangements are in force with the United Kingdom, or with any British possession, [2][Indian State] or foreign country, for the issue and payment through the Post Office of money orders between ~~British India~~ and the United Kingdom or such possession, State or country, the [1][Central Government] may make rules to give effect to such arrangements.

Power to give effect to arrangements with other countries.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the manner in which, and the conditions subject to which, such orders may be issued and paid in ~~British India~~ ; and

(*b*) the rates of commission to be charged thereon.

47. If any person, without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund—

Recovery of money order paid to the wrong person.

(*a*) any amount paid to him in respect of a money order by an officer of the Post Office in excess of what ought to have been paid to him in respect thereof, or

---

1 Subs. by the A. O. for "G. G. in C.".
2 Subs. by the A. O. for "Native State".

(*b*) the amount of a money order paid by an officer of the Post Office to him instead of to some other person to whom it ought to have been paid,

such amount shall be recoverable by an officer of the Post Office authorised by the Post Master General in this behalf from the person so neglecting or refusing as if it were an arrear of land-revenue due from him.[1]

Exemption from liability in respect of money orders.

48. No suit or other legal proceeding shall be instituted against [2][the Crown] or any officer of the Post Office in respect of—

(*a*) anything done under any rules made by the [3][Central Government] under this Chapter ; or

(*b*) the wrong payment of a money order caused by incorrect or incomplete information given by the remitter as to the name and address of the payee, provided that, as regards incomplete information, there was reasonable justification for accepting the information as a sufficient description for the purpose of identifying the payee ; or

(*c*) the payment of any money order being refused or delayed by, or on account of, any accidental neglect, omission or mistake, by, or on the part of, an officer of the Post Office, or for any other cause whatsoever, other than the fraud or wilful act or default of such officer ; or

(*d*) any wrong payment of a money order after the expiration of one year from the date of the issue of the order ; [4][or

(*e*) any wrong payment or delay in payment of a money order beyond the limits of ~~British India~~ by an officer of any post office, not being one established by the [3][Central Government].]

CHAPTER X.

PENALTIES AND PROCEDURE.

Offences by Officers of the Post Office.

Penalty for misconduct of person employed to carry or deliver mail bags or postal articles.

49. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post,—

(*a*) is in a state of intoxication while so employed, or

(*b*) is guilty of carelessness or other misconduct, whereby the safety of any such mail bag or postal article as aforesaid is endangered, or

(*c*) loiters or makes delay in the conveyance or delivery of any such mail bag or postal article as aforesaid, or

---

1 *See* the Revenue Recovery Act, 1890 (1 of 1890).
2 Subs. by the A. O. for "the Secretary of State for India in Council".
3 Subs. by the A. O. for "G. G. in C.".
4 Ins. by the Indian Post Office (Amendment) Act, 1912 (3 of 1912), s. 8.

(*d*) does not use due care and diligence safely to convey or deliver any such mail bag or postal article as aforesaid,

shall be punishable with fine which may extend to fifty rupees.

Penalty for voluntary withdrawal from duty, without permission or notice, of person employed to carry or deliver mail bags or postal articles.

50. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post, voluntarily withdraws from the duties of his office without permission or without having given one month's previous notice in writing, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Penalty for making false entry in register kept by person employed to carry or deliver postal articles.

51. Whoever, being employed to carry or deliver any postal article in course of transmission by post and required while so employed to keep any register, makes, or causes or suffers to be made, any false entry in the register with intent to induce the belief that he has visited a place, or delivered a postal article, which he has not visited or delivered, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for theft, dishonest misappropriation, secretion, destruction, or throwing away, of postal articles.

52. Whoever, being an officer of the Post Office, commits theft in respect of, or dishonestly misappropriates, or, for any purpose whatsoever, secretes, destroys or throws away, any postal article in course of transmission by post or anything contained therein, shall be punishable with imprisonment for a term which may extend to seven years, and shall also be punishable with fine.

Penalty for opening, detaining or delaying postal articles.

53. Whoever, being an officer of the Post Office, contrary to his duty, opens, or causes or suffers to be opened, any postal article in course of transmission by post, or wilfully detains or delays, or causes or suffers to be detained or delayed, any such postal article, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both :

Provided that nothing in this section shall extend to the opening, detaining or delaying of any postal article under the authority of this Act or in obedience to the order in writing of the [1][Central Government] or the direction of a competent Court.

Penalty for fraud in connection with official marks and for receipt of excess postage.

54. Whoever, being an officer of the Post Office,—

(*a*) fraudulently puts any wrong official mark on a postal article, or

(*b*) fraudulently alters, removes or causes to disappear any official mark which is on a postal article, or,

[1] Subs. by the A. O. for "G. G. in C.".

(*c*) being entrusted with the delivery of any postal article, knowingly demands or receives any sum of money in respect of the postage thereof which is not chargeable under this Act,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for fraudulently preparing, altering, secreting or destroying Post Office documents.

55. Whoever, being an officer of the Post Office entrusted with the preparing or keeping of any document, fraudulently prepares the document incorrectly, or alters or secretes or destroys the document, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for fraudulently sending unpaid postal articles.

56. Whoever, being an officer of the Post Office, sends by post, or puts into any mail bag, any postal article upon which postage has not been paid or charged in the manner prescribed by this Act, intending thereby to defraud the Government of the postage on such postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Punishment of offences committed in India outside British India.

57. (*1*) Whoever, being an officer of the Post Office employed in any place ~~in India beyond the limits of British India~~ in which posts are established by [1][the Central Government or the ~~Crown Representative~~], or being appointed to sell postage stamps in any such place, commits therein an offence punishable under this Act, shall be punishable either in the place where the offence was committed by any Court or officer duly empowered by [1][the Central Government ~~or the Crown Representative~~] to take cognizance of offences committed in that place, or in any part of ~~British India~~ by any Court of competent jurisdiction as if the offence had been committed in that part.

(*2*) The provisions of section 188 of the Code of Criminal Procedure, 1898, shall not apply to any offence referred to in this section. V of 1898.

Other Offences.

Penalty for contravention of section 4.

58. (*1*) Whoever—

(*a*) conveys, otherwise than by post, a letter within the exclusive privilege conferred on the [2][Central Government] by section 4, or

(*b*) performs any service incidental to conveying, otherwise than by post, any letter within the exclusive privilege aforesaid, or

(*c*) sends, or tenders or delivers in order to be sent, otherwise than by post, a letter within the exclusive privilege aforesaid, or

(*d*) makes a collection of letters excepted from the exclusive privilege aforesaid for the purpose of sending them otherwise than by post,

1 Subs. by the A. O. for "the G. G. in C.".
2 Subs. by the A. O. for "G. G. in C.".

shall be punishable with fine which may extend to fifty rupees for every such letter.

(*2*) Whoever, having already been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

59. (*1*) Whoever, in contravention of the provisions of section 5, carries, receives, tenders or delivers letters, or collects letters, shall be punishable with fine which may extend to fifty rupees for every such letter. Penalty for contravention of section 5.

(*2*) Whoever, having already been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

60. Whoever, being appointed to sell postage stamps,— Penalty for breach of rules under section 16.

(*a*) takes from any purchaser for any postage stamp or quantity of postage stamps a price higher than that fixed by any rule made under section 16, sub-section (*3*), clause (*a*), shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both ; or

(*b*) commits a breach of any other rule made under section 16, shall be punishable with fine which may extend to two hundred rupees.

61. (*1*) Whoever, in contravention of the provisions of section 19 or section 20, sends or tenders or makes over in order to be sent by post any postal article or anything, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both. Penalty for contravention of section 19 or 20.

(*2*) The detention in the Post Office of any postal article on the ground of its having been sent in contravention of the provisions of section 19 or section 20, shall not exempt the sender from any proceedings which might have been taken if the postal article had been delivered in due course of post.

62. Whoever places in or against any letter-box provided by the Post Office for the reception of postal articles any fire, match or light, any explosive, dangerous, filthy, noxious or deleterious substance, or any fluid, or commits a nuisance in or against any such letter-box, or does any thing likely to injure any such letter-box or its appurtenances or contents, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both. Penalty for defiling or injuring post office letter-boxes.

63. Whoever, without due authority, affixes any placard, advertisement, notice, list, document, board or other thing in or on, or paints, tars or in any way disfigures any post office or any letter-box provided Penalty for affixing without authority

thing to, or painting, tarring or disfiguring, post office or post office letter-box.

by the Post Office for the reception of postal articles, shall be punishable with fine which may extend to fifty rupees.

Penalty for making false declaration.

64. Whoever, being required by this Act to make a declaration in respect of any postal article to be sent by post or the contents or value thereof, makes in his declaration any statement which he knows, or has reason to believe, to be false, or does not believe to be true, shall be punishable with fine which may extend to two hundred rupees, and, if the false declaration is made for the purpose of defrauding the Government, with fine which may extend to five hundred rupees.

Penalty for master of ship failing to comply with the provisions of section 40 or 41.

65. Whoever, being the master of a ship,—

(*a*) fails to comply with the provisions of section 40, or,

(*b*) without reasonable excuse, the burden of proving which shall lie on him, fails to deliver any postal article or mail bag or to comply with the directions of the officer in charge of the post office at a port of arrival, as required by section 41,

shall be punishable with fine which may extend to one thousand rupees.

Penalty for detention of letters on board vessel arriving in port.

66. (*1*) Whoever, being either the master of a ship arriving at any port in ~~British India~~ or any one on board, knowingly has in his baggage or in his possession or custody, after the postal articles on board or any of them have been sent to the post office at the port of arrival, any postal article within the exclusive privilege conferred on the [1][Central Government] by section 4, shall be punishable with fine which may extend to fifty rupees for every such postal article as aforesaid.

(*2*) Whoever, being such master or other person as aforesaid, detains any such postal article as aforesaid after demand made for it by an officer of the Post Office, shall be punishable with fine which may extend to one hundred rupees for every such postal article.

Penalty for detaining mails or opening mail bag.

67. Whoever, except under the authority of this Act [2][or of any other Act for the time being in force] or in obedience to the order in writing of the [1][Central Government] or the direction of a competent Court, detains the mails or any postal article in course of transmission by post, or on any pretence opens a mail bag in course of transmission by post, shall be punishable with fine which may extend to two hundred rupees :

Provided that nothing in this section shall prevent the detention of an officer of the Post Office carrying the mails or any postal article

1 Subs. by the A. O. for "G. G. in C.".
2 Ins. by the Indian Post Office (Amendment) Act, 1921 (15 of 1921), s. 4.

in course of transmission by post, on a charge of having committed an offence declared to be cognizable by the Code of Criminal Procedure, 1898, or any other law for the time being in force.

V of 1898.

68. Whoever fraudulently retains, or wilfully secretes or makes away with, or keeps or detains, or, when required by an officer of the Post Office, neglects or refuses to deliver up, any postal article in course of transmission by post which ought to have been delivered to any other person, or a mail bag containing a postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for retaining postal articles wrongly delivered or mail bags.

69. Whoever, not being an officer of the Post Office, wilfully and maliciously, with intent to injure any person, either opens or causes to be opened any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both :

Penalty for unlawfully diverting letters.

Provided that nothing in this section shall apply to a person who does any act to which the section applies, if he is a parent, or in the position of a parent or guardian, of the addressee, and the addressee is a minor or a ward.

General.

70. Whoever abets the commission of any offence punishable under this Act or attempts to commit any offence so punishable, shall be punishable with the punishment provided for that offence.

Penalty for abetting, or attempting to commit, offences under Act.

71. In every prosecution for an offence in respect of a mail bag or of any postal article sent by post, it shall be sufficient, for the purpose of the charge, to describe the mail bag or postal article as being the property of the Post Office, and it shall not be necessary to prove that the mail bag or postal article was of any value.

Property in cases of offences to be laid in the Post Office.

72. No Court shall take cognizance of an offence punishable under any of the provisions of sections 51, 53, 54, clauses (*a*) and (*b*), 55, 56, 58, 59, 61, 64, 65, 66 and 67 of this Act, unless upon complaint made by order of, or under authority from, the Director General or a Post Master General.

Authority for prosecutions under certain sections of Act.

CHAPTER XI.

SUPPLEMENTAL.

73. (*1*) The [1][Central Government] may make rules for the management of any zamindari or other district post.

Zamindari and other district posts.

(1937)

[1] Subs. by the A. O. for "G. G. in C.".

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may declare what portions of this Act shall be applicable to zamindari and other district posts and to the persons employed in connection therewith.

General power to make rules and provisions as to rules under Act.

74. (*1*) In addition to the powers hereinbefore conferred, the [1][Central Government] may make rules to carry out any of the purposes and objects of this Act.

(*2*) In making any rule under this Act, the [1][Central Government] may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

(*3*) All rules made by the [1][Central Government] under this Act shall be published in the [2][Official Gazette] and, on such publication, shall have effect as if enacted by this Act.

Delegation of powers, other than rule-making powers, to Director General.

75 The [1][Central Government] may, by notification in the [2][Official Gazette] authorise, either absolutely or subject to conditions, the Director General to exercise any of the powers conferred upon the [1][Central Government] by this Act, other than a power to make rules.

76. [*Repeal.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

Saving.

77. Nothing in this Act shall derogate from or affect the provisions of the East India Company Act, 1780,[3] or any enactment amending or extending the same. 21 Geo. 3, 70.

---

[4][THE ~~FIRST SCHEDULE.~~

INLAND POSTAGE RATES.

[*See section 7.*]

Letters.

For a weight not exceeding one tola	One anna.
For every tola, or fraction thereof, exceeding one tola	Half an anna.

Postcards.

Single	Nine pies.
Reply	One and a half annas.

Book, Pattern and Sample Packets.

For the first two and a half tolas or fraction thereof	Six pies.
For every additional two and a half tolas, or fraction thereof, in excess of two and a half tolas.	Three pies.

---

1 Subs. by the A. O. for "G. G. in C.".
2 Subs. by the A. O. for "Gazette of India".
3 Coll. Statt., Vol. I.
4 Subs. by the Indian Finance Act, 1937, for the original Sch.

(The first schedule ...
chedule to be insterted in the Indian Post Office
Act,1886

(See Section 3)

"The First Schedule"

Inland Postage rates

(See section 7)

For a weight not exceeding one tola .....one and a half anna
For every Tola,or fraction thereof,exceeding one tola....one anna

Postcards.

Single .....Nine pies
Reply ... ... one and a half anna.

Book pattern and sample packets.

For the first five tolas or fraction thereof...nine pies.
For every additional two and a half tola,or fraction thereof
in excess of five tolas.....threepies.

Registered News Papers

For a weight not exceeding ten tolas.....Quarter of an anna
For a weight ten tolas and not exceeding twenty tolas..Half an anna
For every twenty tolas,or fraction thereof,exceeding 20 tolas...
In the case of more than one copy of the same ...half an anna
issue of a registered newspaper being carriedin the same packet-
For a weight not exceeding ten tolas...half an anna
For every additional five tolas,or fraction thereof,in
excess of tentolas...Quarter of an anna.

Provided that shall packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the post office.

Parcels.

For a weight not exceeding forty tolas.....six annas
For every forty tolas,or fraction thereof,exceeding
forty tolas..... six annas)

(*The First Schedule—Inland Postage Rates.*)

Registered Newspapers.

For a weight not exceeding ten tolas	Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas ..	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.

Parcels.

For a weight not exceeding forty tolas..	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas ..	Four annas.]

THE SECOND SCHEDULE.—[Enactments repealed.] Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.

THE LIVE-STOCK IMPORTATION ACT, 1898.

ACT No. IX OF 1898.[1]

[*12th August, 1898.*]

An Act to make better provision for the regulation of the importation of live-stock.

WHEREAS it is expedient to make better provision for the regulation of the importation of live-stock which is liable to be affected by infectious or contagious disorders ; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Live-stock Importation Act, 1898. **Short title and local extent.**

(*2*) It extends to ~~the whole of British India~~ [2]* * *.

2. In this Act, unless there is anything repugnant in the subject or context,— **Definitions.**

(*a*) the expression "infectious or contagious disorders" includes tick-pest, anthrax, glanders, farcy, scabies and any other disease or disorder which may be specified by the [3][Central Government] by notification in the [4][Official Gazette] and

(*b*) "live-stock" includes horses, kine, camels, sheep and any other animal which may be specified by the [3][Central Government] by notification in the [4][Official Gazette].

3. (*1*) The [3][Central Government] may, by notification in the [4][Official Gazette] regulate, restrict or prohibit, in such manner and to such extent as [5][it] may think fit, the bringing or taking, by sea or land, into ~~British India~~ or any specified place therein, of any live-stock **Power to regulate importation of live-stock.**

1 For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 282 ; and for Proceedings in Council, *see ibid*, Pt. VI, pp 362 and 364.

This Act has been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3.

2 The word "and" and sub-section (*3*) rep. by the Repealing and Amending Act, 1914 (10 of 1914).

3 Subs. by the A. O. for "G. G. in C.".

4 Subs. by the A. O. for "Gazette of India".

5 Subs. by the A. O. for "he".

which may be liable to be affected by infectious or contagious disorders, and of any fodder, dung, stable-litter, clothing, harness or fittings appertaining to live-stock or that may have been in contact therewith.

(*2*) A notification under sub-section (*1*) shall operate as if it had been issued under section 19 of the Sea Customs Act, 1878, and the officers of customs at every port shall have the same powers in respect of any live-stock or thing, with regard to the importation of which such a notification has been issued, and the vessel containing the same, as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to sea customs and the vessel containing the same ; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly. VIII of 1878.

Power for Provincial Government to make rules.

4. (*1*) The [1][Provincial Government] may [2]* * * * * make rules for the detention, inspection, disinfection or destruction of imported live-stock, and of fodder, dung, stable-litter, clothing, harness or fittings appertaining to imported live-stock or that may have been in contact therewith, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(*2*) In making any rule under this section the [1][Provincial Government] may direct that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

Protection to persons acting under Act.

5. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

THE INDIAN INSOLVENCY RULES ACT, 1898.

ACT No. X OF 1898.[3]

[*2nd September, 1898.*]

An Act to make provision for certain matters connected with Insolvency.

WHEREAS doubts have arisen as to the extent of the power to make rules[4] conferred by sections 15 and 76 of the Indian Insolvency Act, 1848,[5] and whereas it is expedient to remove those doubts and to confirm certain rules which were made by the High Court of Judicature 11 & 12 Vict., c. 21.

1 Subs. by the A. O. for "L. G.".

2 The words "subject to the control of the G. G. in C." rep. by the A. O.

3 For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 275 ; for Proceedings in Council, *see ibid*, 1898, Pt. VI, pp. 295 and 336.

4 For rules as to practice and procedure made by the High Court, Madras, under this Act, *see* Madras High Court Rules and Orders.

5 Coll. Stat., Vol. I.

at Bombay on the thirty-first day of July, 1878 ; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Indian Insolvency Rules Act, 1898 [1]* * * *. **Short title.**

2 and 3. [*Extent of rule-making power. Confirmation of rules.*] *Rep. by the Presidency-towns Insolvency Act, 1909 (III of 1909), s. 127 and Sch. III.*

4. The Chief Justice of the said Court[2] may, with the previous sanction of the [3][Central Government], pay to the present official assignee, out of the interest on the Unclaimed Dividend Account, such sum by way of pension on retirement, or bonus in lieu thereof, as may be reasonable and proper having regard to the length, nature and conditions of his service. **Official assignee's allowance for pension.**

THE INDIAN STAMP ACT, 1899.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

3. Instruments chargeable with duty.
4. Several instruments used in single transaction of sale, mortgage or settlement.
5. Instruments relating to several distinct matters.
6. Instruments coming within several descriptions in Schedule I.
7. Policies of sea-insurance.
8. Bonds, debentures or other securities issued on loans under Act XI, 1879.
9. Power to reduce, remit or compound duties.

---

1 The word "and" and sub-section (*2*) rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

2 The Court, referred to in the previous section (now rep.), is the High Court of Judicature at Bombay.

3 Subs. by the A. O. for "G. G. in C.".

B.—Of Stamps and the mode of using them.

SECTIONS.

10. Duties how to be paid.
11. Use of adhesive stamps.
12. Cancellation of adhesive stamps.
13. Instruments stamped with impressed stamps how to be written
14. Only one instrument to be on same stamp.
15. Instrument written contrary to section 13 or 14 deemed unstamped.
16. Denoting duty.

C.—Of the time of stamping Instruments.

17. Instruments executed in ~~British India~~.
18. Instruments other than bills and notes executed out of ~~British India.~~
19. Bills and notes drawn out of ~~British India~~.

D.—Of Valuations for Duty.

20. Conversion of amount expressed in foreign currencies.
21. Stock and marketable securities how to be valued.
22. Effect of statement of rate of exchange or average price.
23. Instruments reserving interest.
23A. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.
24. How transfer in consideration of debt, or subject to future payment, etc., to be charged.
25. Valuation in case of annuity, etc.
26. Stamp where value of subject-matter is indeterminate.
27. Facts affecting duty to be set forth in instrument.
28. Direction as to duty in case of certain conveyances.

E.—Duty by whom payable.

29. Duties by whom payable.
30. Obligation to give receipt in certain cases.

CHAPTER III.

ADJUDICATION AS TO STAMPS.

31. Adjudication as to proper stamp.
32. Certificate by Collector.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

33. Examination and impounding of instruments.
34. Special provision as to unstamped receipts.

SECTIONS.

35. Instruments not duly stamped inadmissible in evidence, etc.
36 Admission of instrument where not to be questioned.
37. Admission of improperly stamped instruments.
38. Instruments impounded how dealt with.
39. Collector's power to refund penalty paid under section 38, sub-section (*1*).
40. Collector's power to stamp instruments impounded.
41. Instruments unduly stamped by accident.
42. Endorsement of instruments on which duty has been paid under section 35, 40 or 41.
43. Prosecution for offence against Stamp-law.
44. Persons paying duty or penalty may recover same in certain cases.
45. Power to Revenue-authority to refund penalty or excess duty in certain cases.
46. Non-liability for loss of instruments sent under section 38.
47. Power of payer to stamp bills and promissory notes received by him unstamped.
48. Recovery of duties and penalties.

CHAPTER V

ALLOWANCES FOR STAMPS IN CERTAIN CASES.

49. Allowance for spoiled stamps.
50. Application for relief under section 49 when to be made.
51. Allowance in case of printed forms no longer required by Corporations.
52. Allowance for misused stamps.
53. Allowance for spoiled or misused stamps how to be made.
54. Allowance for stamps not required for use.
55. Allowance on renewal of certain debentures.

CHAPTER VI.

REFERENCE AND REVISION.

56. Control of, and statement of case to, Chief Controlling Revenue-authority.
57. Statement of case by Chief Controlling Revenue-authority to High Court, Chief Court or Judicial Commissioner's Court.
58. Power of High Court, Chief Court or Judicial Commissioner's Court to call for further particulars as to case stated.
59. Procedure in disposing of case stated.

SECTIONS.

60. Statement of case by other Courts to High Court, Chief Court or Judicial Commissioner's Court.

61. Revision of certain decisions of Courts regarding the sufficiency of stamps.

CHAPTER VII.

CRIMINAL OFFENCES AND PROCEDURE.

62. Penalty for executing, etc., instrument not duly stamped.

63. Penalty for failure to cancel adhesive stamp.

64. Penalty for omission to comply with provisions of section 27.

65. Penalty for refusal to give receipt, and for devices to evade duty on receipts.

66. Penalty for not making out policy. or making one not duly stamped.

67. Penalty for not drawing full number of bills or marine policies purporting to be in sets.

68. Penalty for post-dating bills, and for other devices to defraud the revenue.

69. Penalty for breach of rule relating to sale of stamps and for unauthorised sale.

70. Institution and conduct of prosecutions.

71. Jurisdiction of Magistrates.

72. Place of trial.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

73. Books, etc., to be open to inspection.

74. Powers to make rules relating to sale of stamps.

75. Power to make rules generally to carry out Act.

76. Publication of rules.

76A. Delegation of certain powers.

77. Saving as to court-fees.

78. Act to be translated and sold cheaply.

79. [*Repealed.*]

SCHEDULE I.—STAMP-DUTY ON INSTRUMENTS.

SCHEDULE II.—[*Repealed.*]

ACT No. II OF 1899.[1]

[*27th January, 1899.*]

An Act to consolidate and amend the law relating to Stamps.

WHEREAS it is expedient to consolidate and amend the law relating to Stamps ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Stamp Act, 1899.

(*2*) It extends to the whole of British India, inclusive of [2]* * * British Baluchistan, the Santhal Parganas, and the Pargana of Spiti ; and

(*3*) It shall come into force on the first day of July 1899.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"Banker."

(*1*) "banker" includes a bank and any person acting as a banker :

"Bill of exchange."

(*2*) "bill of exchange" means a bill of exchange as defined by the Negotiable Instruments Act, 1881, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether

XXVI of 1881.

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 175 ; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 231 ; and for Proceedings in Council, *see ibid*, 1898, Pt. VI, pp. 10 and 278 ; and *ibid*, 1899, Pt. VI, p. 5.

The Act has been amended in its application to :—

(1) Madras, by the Madras Stamp (Amendment) Act, 1922 (Mad. 6 of 1922) and the Madras Stamp (Further Amendment) Act, 1923 (Mad. 6 of 1923) ;

(2) Bombay, by the Bombay Finance Act, 1932 (Bom. 2 of 1932), as amended by Bombay Acts 1 of 1935 and 3 of 1936 ;

(3) Bengal, by the Bengal Stamp (Amendment) Act, 1922 (Ben. 3 of 1922) and the Indian Stamp (Bengal Amendment) Act, 1935 (Ben. 12 of 1935) ;

(4) the U. P., by the U. P. Stamp (Amendment) Act, 1932 (U. P. 4 of 1932), as amended by U. P. Act 3 of 1936 ;

(5) the Punjab and the N. W. F. P., by the Indian Stamp (Punjab Amendment) Act, 1922 (Punjab 8 of 1922) and the Indian Stamp (Punjab Amendment) Act, 1924 (Punjab 1 of 1924) : *see* also the Punjab Stamp (Amendment) Act, 1935 (Punjab 1 of 1935) applying only to the Punjab ;

(6) Assam, by the Assam Stamp (Amendment) Act, 1936 (Assam 15 of 1936) ; and

(7) Coorg, by the Coorg Stamp (Amendment) Act, 1935 (Coorg 2 of 1935).

This Act has been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 ; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

Under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), the Act has been declared to be in force in the Scheduled Districts of Ganjam, Vizagapatam, and East Godavary, *see* notification No. 121, dated 25th April 1927, Fort St. George Gazette, 1927, Pt. I, p. 684. It has also been extended under ss. 5 and 5A of the same Act, with certain modifications to the districts of the Khasi and Jaintia Hills, the Garo Hills, the Lushai Hills and the Naga Hills and the North Kachar sub-division of the Kachar district, the Mikir Hill Tracts in the Sibsagar and Nowgong districts and the Lakhimpur frontier tract, *see* notification No. 1541-F. (*a*), dated 10th April 1930, Assam Gazette, 1930, Pt. II, p. 700.

2 The words "Upper Burma" rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money :

"Bill of exchange payable on demand."

(*3*) " bill of exchange payable on demand " includes—

(*a*) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen ;

(*b*) an order for the payment of any sum of money weekly, monthly or at any other stated periods ; and

(*c*) a letter of credit, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn :

"Bill of lading."

(*4*) " bill of lading " includes a " through bill of lading," but does not include a mate's receipt :

"Bond."

(*5*) " bond " includes—

(*a*) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be ;

(*b*) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another ; and

(*c*) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another :

"Chargeable."

(*6*) " chargeable " means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in ~~British India~~ when such instrument was executed or, where several persons executed the instrument at different times, first executed :

"Cheque."

(*7*) " cheque " means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand :

[1]* * * * * * *

"Collector."

(*9*) " Collector "—

(*a*) means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively, and, without those limits, the Collector of a district ; and

---

[1] Cl. (*8*) defining " Chief Controlling Revenue-authority ", rep. by the A. O. : *see* now definition in s. 3 (*9a*) of the General Clauses Act, 1897 (10 of 1897).

(*b*) includes a Deputy Commissioner and any officer whom [1][the collecting Government] may, by notification[2] in the Official Gazette, appoint in this behalf :

(*10*) " conveyance " includes a conveyance on sale and every instrument by which property, whether moveable or immoveable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I : "Conveyance."

(*11*) " duly stamped ", as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in ~~British India~~ : "Duly stamped."

(*12*) " executed " and " execution ", used with reference to instruments, mean " signed " and " signature " : "Executed" and "execution."

[3][(*12A*) " collecting Government " means— "Collecting Government."

(*a*) in relation to stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance. proxies and receipts, and in relation to any other stamp duty chargeable under this Act and falling within item 59 in List I in the Seventh Schedule to the Government of India Act, 1935, the Central Government ;

26 Geo. 5, c 2.

(*b*) save as aforesaid, the Provincial Government.]

(*13*) " impressed stamp " includes— "Impressed stamp."

(*a*) labels affixed and impressed by the proper officer, and

(*b*) stamps embossed or engraved on stamped paper :

(*14*) " instrument " includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded : "Instrument."

(*15*) " instrument of partition " means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-authority or any Civil Court and an award by an arbitrator directing a partition : "Instrument of partition."

---

1 Subs. by the A. O. for " the L. G. ".

2 For notification by the Chief Commissioner of Ajmer-Merwara, declaring that " Collector " includes Assistant Commissioners of the Province, *see* Gazette of India, 1902, Pt. II, p. 501.

For notification appointing all Assistant Commissioners and Extra Assistant Commissioners who are sub-divisional officers, as Collectors under this Act in the C. P., *see* C. P. Gazette, 1911, Pt. I, p. 433.

For notification appointing the officer in charge of the Mercara Treasury as a Collector in Coorg, *see* Coorg District Gazette, 1925, Pt. I, p. 76.

3 Ins. by the A. O. 1937

"Lease."

(*16*) "lease" means a lease of immoveable property, and includes also—

(*a*) a pattá ;

(*b*) a kabúliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for, immoveable property ;

(*c*) any instrument by which tolls of any description are let ;

(*d*) any writing on an application for a lease intended to signify that the application is granted :

"Marketable security."

[1][(*16A*) "marketable security" means a security of such a description as to be capable of being sold in any stock market in ~~British India~~ or in the United Kingdom :]

"Mortgage-deed."

(*17*) "mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to, or in favour of, another, a right over or in respect of specified property :

"Paper".

(*18*) "paper" includes vellum, parchment or any other material on which an instrument may be written :

"Policy of insurance."

(*19*) "policy of insurance" includes—

(*a*) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event ;

(*b*) a life-policy, and any policy insuring any person against accident or sickness, and any other personal insurance : [2]*

[2]* * * * * * *

"Policy of sea-insurance" or "sea-policy".

(*20*) "policy of sea-insurance" or "sea-policy"—

(*a*) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel ; and

(*b*) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (*a*), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance :

---

1 Ins. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 2.

2 The word "and" and sub-clause (*c*) rep. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 2.

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance :

"Power-of-attorney."

(*21*) "power-of-attorney" includes any instrument (not chargeable with a fee under the law relating to court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it :

"Promissory note."

(*22*) "promissory note" means a promissory note as defined by the Negotiable Instruments Act, 1881 ; XXVI of 1881.

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen :

"Receipt."

(*23*) "receipt" includes any note, memorandum or writing—

(*a*) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or

(*b*) whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or

(*c*) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or

(*d*) which signifies or imports any such acknowledgment,

and whether the same is or is not signed with the name of any person : [1]*

"Settlement."

(*24*) "settlement" means any non-testamentary disposition, in writing, of moveable or immoveable property made—

(*a*) in consideration of marriage,

(*b*) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(*c*) for any religious or charitable purpose ;

and includes an agreement in writing to make such a disposition [2][and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the

---

1 The word "and" was rep. by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and Sch. I.

2 Ins. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 2.

terms of any such disposition] : [1][and

"Soldier."

(*25*) "soldier" includes any person below the rank of non-commissioned officer who is enrolled under the Indian Army Act, 1911.] VIII of 1911.

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

Instruments chargeable with duty.

3. Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say—

(*a*) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in ~~British India~~ on or after the first day of July, 1899 ;

(*b*) every bill of exchange [2][payable otherwise than on demand] [3]* or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in ~~British India~~ ; and

(*c*) every instrument (other than a bill of exchange [3]* or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed out of ~~British India~~ on or after that day, relates to any property situate, or to any matter or thing done or to be done, in ~~British India~~ and is received in ~~British India~~ :

Provided that no duty shall be chargeable in respect of—

(*1*) any instrument executed by, or on behalf of, or in favour of, the [4][Crown] in cases where, but for this exemption, the [4][Crown] would be liable to pay the duty chargeable in respect of such instrument ;

(*2*) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894,[5] or under Act XIX of 1838,[6] or the Indian Registration of Ships Act, 1841, as amended by subsequent Acts. 57 & 58 Vict., c. 60. X of 1841.

---

1 Ins. by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and Sch. I.

2 Ins. by the Indian Finance Act, 1927 (5 of 1927), s. 5.

3 The word "cheque" rep. by s. 5, *ibid.*

4 Subs. by the A. O. for "Govt.".

5 Coll. Stat., Vol. II.

6 The Bombay Coasting Vessels Act, 1838.

4. (*1*) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I, for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule. Several instruments used in single transaction of sale, mortgage or settlement.

(*2*) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (*1*), be deemed to be the principal instrument :

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

5. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act. Instruments relating to several distinct matters.

6. Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties : Instruments coming within several descriptions in Schedule I.

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

7. (*1*) No contract for sea-insurance (other than such insurance as is referred to in section 506 of the [1]Merchant Shipping Act, 1894) shall be valid unless the same is expressed in a sea-policy. Policies of sea-insurance.

57 & 58 Vict., c. 60.

(*2*) No sea-policy made for time shall be made for any time exceeding twelve months.

(*3*) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or under-writers, and the amount or amounts insured.

(*4*) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

8. (*1*) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loan Act, 1879, or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be Bonds, debentures or other securities issued on loans under Act XI, 1879.

XI of 1879.

1 Coll. Stat., Vol. II.

chargeable with a duty of [1][one per centum] on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(*2*) The provisions of sub-section (*1*) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not :

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March, 1897, when such duty has not already been paid or remitted by order issued by the [2][Central Government].

(*3*) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

Power to reduce, remit or compound duties.

9. [3][The collecting Government] may, by rule or order published in the [4][Official Gazette],—

[5](*a*) reduce or remit, whether prospectively or retrospectively, in the whole or any part of [6][the territories under its administration], the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(*b*) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

B.—Of Stamps and the mode of using them.

Duties how to be paid.

10. (*1*) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such

1 Subs. by the Indian Stamp (Amendment) Act, 1910 (6 of 1910), s. 2, for "eight annas per centum".

2 Subs. by the A. O. for "G. G. in C.".

3 Subs. by the A. O. for "The G. G. in C.".

4 Subs. by the A. O. for "Gazette of India".

5 For notifications by the Central Govt. reducing and remitting certain duties, *see* Gazette of India, 1937, Pt. I, pp. 1442, 2032 and 2035.

6 Subs. by the A. O. for "British India".

payment shall be indicated on such instruments, by means of stamps—

(*a*) according to the provisions herein contained ; or

(*b*) when no such provision is applicable thereto—as the [1][collecting Government] may by rule direct.

(*2*) The rules[2] made under sub-section (*1*) may, among other matters, regulate,—

(*a*) in the case of each kind of instrument—the description of stamps which may be used ;

(*b*) in the case of instruments stamped with impressed stamps—the number of stamps which may be used ;

(*c*) in the case of bills of exchange or promissory notes written in any Oriental language—the size of the paper on which they are written.

Use of adhesive stamps.

11. The following instruments may be stamped with adhesive stamps, namely :—

(*a*) instruments chargeable with the duty of one anna [3][or half an anna], except parts of bills of exchange payable otherwise than on demand and drawn in sets ;

(*b*) bills of exchange [4]* and promissory notes drawn or made out of ~~British India~~ ;

[5](*c*) entry as an advocate, vakil or attorney on the roll of a High Court ;

(*d*) notarial acts ; and

(*e*) transfers by endorsement of shares in any incorporated company or other body corporate.

Cancellation of adhesive stamps.

12. (*1*) (*a*) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again ; and

(*b*) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(*2*) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

---

1 Subs. by the A. O. for "G. G. in C.".

2 *See* the Indian Stamp Rules, 1925 (Gen. R. and O., Vol. III, pp. 338 to 347).

3 Ins. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 3.

4 The word "cheques" rep. by the Indian Finance Act, 1927 (5 of 1927), s. 5.

5 As to the enrolment of legal practitioners in the N. W. F. P., *see* the N. W. F. P. Law and Justice Regulation, 1901 (7 of 1901), s. 9.

(*3*) The person required by sub-section (*1*) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

Instruments stamped with impressed stamps how to be written.

13. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp.

14. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written :

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instrument written contrary to section 13 or 14 deemed unstamped.

15. Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

Denoting duty.

16. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument, by endorsement under the hand of the Collector or in such other manner (if any) as the [1][collecting Government] may by rule prescribe.

C.—Of the time of stamping Instruments.

Instruments executed in British India.

17. All instruments chargeable with duty and executed by any person in ~~British India~~ shall be stamped before or at the time of execution.

Instruments other than bills and notes executed out of ~~British India~~ the Provinces.

18. (*1*) Every instrument chargeable with duty executed only out of ~~British India~~, and not being a bill of exchange [2] * or promissory note, may be stamped within three months after it has been first received in ~~British India~~.

(*2*) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the [1][collecting

1 Subs. by the A. O. for "G. G. in C.".

2 The word "cheque" rep. by the Indian Finance Act, 1927 (5 of 1927), s. 5.

Government] may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills and notes drawn out of British India.

19. The first holder in ~~British India~~ of any bill of exchange [1][payable otherwise than on demand] [2] * or promissory note drawn or made out of ~~British India~~ shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in ~~British India~~, affix thereto the proper stamp and cancel the same :

Provided that,—

(*a*) if, at the time any such bill of exchange [2] * or note comes into the hands of any holder thereof in ~~British India~~, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled :

(*b*) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D.—Of Valuations for Duty.

Conversion of amount expressed in foreign currencies.

20. (*1*) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of ~~British India~~, such duty shall be calculated on the value of such money in the currency of ~~British India~~ according to the current rate of exchange on the day of the date of the instrument.

(*2*) The [3][Central Government] may, from time to time, by notification in the [4][Official Gazette], prescribe[5] a rate of exchange for the conversion of British or any foreign currency into the currency of ~~British India~~ for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (*1*).

Stock and marketable securities how to be valued.

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

Effect of statement of rate of

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in

1 Ins. by the Indian Finance Act, 1927 (5 of 1927), s. 5.
2 The word "cheque" was rep. by s. 5, *ibid*
3 Subs. by the A. O. for "G. G. in C.".
4 Subs. by the A. O. for "Gazette of India".
5 For notification prescribing such rates, *see* Finance Department (Central Revenues) Notification C. No. 125-Stamps|25, dated 18th September 1925 (Gazette of India, 1925, Pt. I, p. 886), as amended by Notification No. 8-Stamps, dated 7th November 1931.

exchange or average price.

accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Instruments reserving interest.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.

[1][**23A.** (*1*) Where an instrument (not being a promissory note or bill of exchange)—

(*a*) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(*b*) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under [2][Article No. 5 (*c*)] of Schedule I.

(*2*) A release or discharge of any such instrument shall only be chargeable with the like duty.]

How transfer in consideration of debt, or subject to future payment, etc., to be charged.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty :

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

Explanation.—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale :

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

---

1 Ins. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 3.

2 Subs. by the Indian Stamp (Amendment) Act, 1912 (1 of 1912), s. 3, for "Article No. 5 (*b*)".

Illustrations.

(*1*) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp-duty is payable on Rs. 1,500.

(*2*) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp-duty is payable on Rs. 1,700.

(*3*) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp-duty is payable on Rs. 10,000 less the amount of stamp-duty already paid for the mortgage.

Valuation in case of annuity, etc.

25. Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be,—

(*a*) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount ;

(*b*) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due ; and

(*c*) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

Stamp where value of subject-matter is indeterminate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient :

[1][Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall

[1] Subs. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 4, for the original proviso.

be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,—

(*a*) when the lease has been granted by or on behalf of [1][the Crown], at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to [2][the Crown] under the lease, or,

(*b*) when the lease has been granted by any other person, at twenty thousand rupees a year ;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease :]

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

Facts affecting duty to be set forth in instrument.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Direction as to duty in case of certain conveyances.

28. (*1*) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(*2*) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(*3*) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(*4*) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell

[1] ~~Subs. by the A. O.~~ for "the Secretary of State in Council".
[2] ~~Subs. by the A. O.~~ for "the said Secretary of State in Council".

1937

the whole, or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration ; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers :

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

E.—Duty by whom payable.

Duties by whom payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

(*a*) in the case of any instrument described in any of the following Articles of Schedule I, namely :—

No. 2. (Administration Bond),

[1][No. 6. (Agreement relating to Deposit of Title-deeds, Pawn or Pledge),]

No. 13. (Bill of Exchange),

No. 15. (Bond),

No 16. (Bottomry Bond),

No. 26. (Customs Bond),

No. 27. (Debenture),

No. 32. (Further Charge),

No. 34. (Indemnity-Bond),

No. 40. (Mortgage-Deed),

No. 49. (Promissory-Note),

No. 55 (Release),

No. 56. (Respondentia Bond),

No. 57. (Security Bond or Mortgage-Deed),

---

1 Subs. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 5, for "No. 6 (Agreement to mortgage)".

No. 58. (Settlement),

No. 62 (*a*). (Transfer of shares in an incorporated company or other body corporate),

No. 62 (*b*). (Transfer of Debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),

No. 62 (*c*). (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance),—

by the person drawing, making or executing such instrument :

[1][(*b*) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance ;

(*bb*) in the case of a policy of fire-insurance—by the person issuing the policy ;]

(*c*) in the case of a conveyance (including a re-conveyance of mortgaged property) by the grantee : in the case of a lease or agreement to lease—by the lessee or intended lessee :

(*d*) in the case of a counterpart of a lease—by the lessor :

(*e*) in the case of an instrument of exchange—by the parties in equal shares :

(*f*) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates : and,

(*g*) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue-authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

Obligation to give receipt in certain cases.

30. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part satisfaction of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

[2][Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.]

[1] Subs. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 4, for the original cl. (*b*).

[2] Ins. by s. 5, *ibid.*

CHAPTER III.

ADJUDICATION AS TO STAMPS.

Adjudication as to proper stamp.

31. (*1*) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(*2*) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly :

Provided that—

(*a*) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable ; and

(*b*) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by Collector.

32. (*1*) When an instrument brought to the Collector under section 31, is, in his opinion, one of a description chargeable with duty, and—

(*a*) the Collector determines that it is already fully stamped, or

(*b*) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,[1]

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(*2*) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

---

1 For refund of this duty in the case of certain instruments, *see* the Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924), s. 3 (*4*).

(*Chapter III.—Adjudication as to Stamps. Chapter IV.—Instruments not duly stamped.*)

(*3*) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be ; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped :

Provided that nothing in this section shall authorise the Collector to endorse—

(*a*) any instrument executed or first executed in ~~British India~~ and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be ;

(*b*) any instrument executed or first executed out of ~~British India~~ and brought to him after the expiration of three months after it has been first received in ~~British India~~ ; or

(*c*) any instrument chargeable with the duty of one anna [1][or half an anna] or any bill of exchange or promissory note, when brought to him, after the drawing or execution thereof, on paper not duly stamped.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

Examination and impounding of instruments.

33. (*1*) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(*2*) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in ~~British India~~ when such instrument was executed or first executed :

Provided that—

(*a*) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 ; V of 1898.

---

[1] Ins. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 3.

(*b*) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(*3*) For the purposes of this section, in cases of doubt,—

(*a*) [1][the collecting Government] may determine[2] what offices shall be deemed to be public offices ; and

(*b*) [3][the collecting Government] may determine who shall be deemed to be persons in charge of public offices.

Special provision as to unstamped receipts.

34. Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Instruments not duly stamped inadmissible in evidence, etc.

35. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped :

Provided that—

[4](*a*) any such instrument not being an instrument chargeable with a duty of one anna [5][or half an anna] only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion ;

(*b*) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence

---

1 Subs. by the A. O. for "the G. G. in C.".

2 For the purposes of this section, the office of a returning officer appointed for the purposes of an election to a legislative body constituted under the Government of India Act is not a public office, *see* Gazette of India, 1920, Pt. I, p. 2136, and Vol. III of the Gen. R. and O., p. 349.

3 Subs. by the A. O. for "the L. G.".

4 For modifications of this provision in respect of instruments to which the Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924) applies, *see* s. 3 of that Act.

5 Ins. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 3.

(*Chapter IV.—Instruments not duly stamped.*)

against him on payment of a penalty of one rupee by the person tendering it ;

(*c*) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped ;

(*d*) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 ; V of 1898.

(*e*) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of [1][the Crown], or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

Admission of instrument where not to be questioned.

36. Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission of improperly stamped instruments.

37. [2][The collecting Government] may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Instruments impounded how dealt with.

38. (*1*) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

(*2*) In every other case, the person so impounding an instrument shall send it in original to the Collector.

Collector's power to refund penalty paid under section 38, sub-section (*1*).

39. (*1*) When a copy of an instrument is sent to the Collector under section 38, sub-section (*1*), he may, if he thinks fit, [3]* * * refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

---

1 Subs. by the A. O. for "the Govt.".

2 Subs. by the A. O. for "The G. G. in C.".

3 The words "upon application made to him in this behalf or, if no application is made, with the consent of the Chief Controlling Revenue-authority" rep. by the Decentralization Act, 1914 (4 of 1914), s. 2 and Sch., Pt. I.

(*Chapter IV.—Instruments not duly stamped.*)

(*2*) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

Collector's power to stamp instruments impounded.

[1]**140.** (*1*) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (*2*), not being an instrument chargeable with a duty of one anna [2][or half an anna] only or a bill of exchange or promissory note, he shall adopt the following procedure :—

(*a*) if he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be :

(*b*) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees ; or, if he thinks fit, [3][an amount not exceeding] ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees :

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(*2*) Every certificate under clause (*a*) of sub-section (*1*) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(*3*) Where an instrument has been sent to the Collector under section 38, sub-section (*2*), the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

Instruments unduly stamped by accident.

[1]**141.** If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of one anna [2][or half an anna] only or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector

---

1 For modifications of these provisions in respect of instruments to which the Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924), applies, *see* s. 3 of that Act

2 Ins. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 3.

3 Ins. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 6.

is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

Endorsement of instruments on which duty has been paid under section 35, 40 or 41.

42. (*1*) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

(*2*) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct :

Provided that—

(*a*) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate ;

(*b*) nothing in this section shall affect the [1]Code of Civil Procedure, section 144, clause 3. XIV of 1882.

Prosecution for offence against Stamp-law.

43. The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument :

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

Persons paying duty or penalty may recover same in certain cases.

44. (*1*) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

---

[1] *See* now the Code of Civil Procedure, 1908 (5 of 1908), Sch. I, Order XIII, rule 9.

(*2*) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(*3*) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

Power to Revenue-authority to refund penalty or excess duty in certain cases.

45. (*1*) Where any penalty is paid under section 35 or section 40, the [1]Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(*2*) Where, in the opinion of the [1]Chief Controlling Revenue-authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

Non-liability for loss of instruments sent under section 38.

46. (*1*) If any instrument sent to the Collector under section 38, sub-section (*2*), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(*2*) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

Power of payer to stamp bills and promissory notes received by him unstamped.

47. When any bill of exchange [2][or promissory note] chargeable with the duty of one anna is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill [3][or note], and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill [3][or note] shall, so far as respects the duty, be deemed good and valid .

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill [3][or note].

---

1 For definition, *see* the General Clauses Act, 1897 (10 of 1897), s. 3 (*9a*). In the N.-W. F. P., the reference to the Chief Controlling Revenue-authority should be construed as a reference to the Revenue Commissioner.—*See* the N.-W. F. P. Law and Justice Regulation, 1901 (7 of 1901), s. 6 (*1*) (*d*).

2 Subs. by the Indian Finance Act, 1927 (5 of 1927), s. 5, for "promissory note or cheque".

3 Subs. by s. 5, *ibid*, for "note or cheque".

(Chapter IV.—Instruments not duly stamped. Chapter V.—Allowances for stamps in certain cases.)

Recovery of duties and penalties.

48. All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the moveable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

CHAPTER V.

ALLOWANCES FOR STAMPS IN CERTAIN CASES.

Allowance for spoiled stamps.

49. Subject to such rules as may be made by [1][the collecting Government] as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely :—

(*a*) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person :

(*b*) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto :

(*c*) in the case of bills of exchange [2][payable otherwise than on demand] [3]* or promissory notes—

(*1*) the stamp on [4][any such bill of exchange] [5]* signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance : provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange [5]* * to be afterwards written thereon :

(*2*) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands :

---

1 Subs. by the A. O. for the words "the L. G.". The words "L. G." had been subs. by the Decentralization Act, 1914 (4 of 1914), s. 2 and Sch., Pt. I, for "G. G. in C.".

2 Ins. by the Indian Finance Act, 1927 (5 of 1927), s. 5.

3 The word "cheques" rep. by s. 5, *ibid.*

4 Subs. by s. 5, *ibid*, for "any bill of exchange".

5 The words "or cheque" rep. by s. 5, *ibid.*

(*Chapter V.—Allowances for stamps in certain cases.*)

(*3*) the stamp used or intended to be used for [1][any such bill of exchange] [2] or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange [3]* *, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee : provided that another completed and duly stamped bill of exchange [2]* or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill [2]* or note :

(*d*) the stamp used for an instrument executed by any party thereto which—

(*1*) has been afterwards found to be absolutely void in law from the beginning :

(*2*) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended :

(*3*) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed :

(*4*) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :

(*5*) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :

(*6*) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value :

---

1 Subs. by the Indian Finance Act, 1927 (5 of 1927), s. 5 for "any bill of exchange".

2 The word "cheque" rep. by s. 5, *ibid.*

3 The words "or cheque" rep. by s. 5, *ibid.*

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value :

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped :

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

Application for relief under section 49 when to be made.

50. The application for relief under section 49 shall be made within the following periods, that is to say,—

(1) in the cases mentioned in clause (*d*) (5), within two months of the date of the instrument :

(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled :

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed :

Provided that,—

(*a*) when the spoiled instrument has been for sufficient reasons sent out of ~~British India~~, the application may be made within six months after it has been received back in ~~British India~~ :

(*b*) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

Allowance in case of printed forms no

51. The [1]Chief Controlling Revenue-authority [2][or the Collector if empowered by the Chief Controlling Revenue-authority in this behalf] may, without limit of time, make allowance for stamped papers

1 *See* foot-note 1 to s. 45, *supra*.

2 Ins. by the Decentralization Act, 1914 (4 of 1914), s. 2 and Sch., Part I.

(*Chapter V.—Allowances for stamps in certain cases.*)

used for printed forms of instruments [1][by any banker or] by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said [1][banker,] company or body corporate : provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

longer required by Corporations.

52. (*a*) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty ; or

Allowance for misused stamps.

(*b*) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13 ;

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

Allowance for spoiled or misused stamps how to be made.

(*a*) other stamps of the same description and value ; or

(*b*) if required and he thinks fit, stamps of any other description to the same amount in value ; or,

(*c*) at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

54. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

Allowance for stamps not required for use.

(*a*) that such stamp or stamps were purchased by such person with a *bona fide* intention to use them ; and

(*b*) that he has paid the full price thereof ; and

(*c*) that they were so purchased within the period of six months next preceding the date on which they were so delivered :

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

[1] Ins. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 6.

(*Chapter V—Allowances for stamps in certain cases Chapter VI.—Reference and Revision.*)

Allowance on renewal of certain debentures.

55. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less :

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the [1][Provincial Government] may direct.

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes :—

(*a*) the issue of two or more debentures in place of one original debenture, the total amount secured being the same ;

(*b*) the issue of one debenture in place of two or more original debentures, the total amount secured being the same ;

(*c*) the substitution of the name of the holder at the time of renewal for the name of the original holder ; and

(*d*) the alteration of the rate of interest or the dates of payment thereof.

CHAPTER VI.

Reference and Revision.

Control of, and statement of case to, Chief Controlling Revenue-authority.

56. (*1*) The powers exercisable by a Collector under Chapter IV and Chapter V [2][and under clause (*a*) of the first proviso to section 26] shall in all cases be subject to the control of the [3]Chief Controlling Revenue-authority.

(*2*) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the [3]Chief Controlling Revenue-authority.

(*3*) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

Statement of case by Chief Controlling Revenue-authority to High Court, Chief Court

57. (*1*) The [3]Chief Controlling Revenue-authority may state any case referred to it under section 56, sub-section (*2*), or otherwise coming to its notice, and refer such case, with its own opinion thereon,—

[4]~~[(*a*) if the case arises in the Province of Madras or in Coorg, to the High Court at Madras~~ ;

1 Subs. by the A. O. for "G. G. in C.".
2 Ins. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 7.
3 *See* foot-note 1 to s. 45, *supra*.
4 Subs. by the A. O. for the original clauses (*a*) to (*e*).

"(a) if it arises in the Andaman and Nicobar Islands, to the High Court in Calcutta;
(b) if it arises in Ajmer-Merwara, to the High Court at Allahabad; and
(c) if it arises in any other Province or part of a Province, to the High Court of that Province or part of the Province."

(*Chapter VI.—Reference and Revision.*)

(*b*) if it arises in the Province of Bombay, to the High Court at Bombay ; or Judicial Commissioner's Court.

(*c*) if it arises in Sind, to the Judicial Commissioner's Court ;

(*d*) if it arises in Agra or in Ajmer-Merwara, to the High Court at Allahabad ;

(*e*) if it arises in Oudh, to the Chief Court ;

(*f*) if it arises in Bihar or in Orissa, to the High Court at Patna ;

(*g*) if it arises in the Punjab, the North-West Frontier Province, British Baluchistan, or Delhi, to the High Court at Lahore ;

(*h*) if it arises in the Central Provinces and Berar, to the High Court at Nagpur ; and

(*i*) if it arises in any other part of British India, to the High Court at Calcutta.]

(*2*) Every such case shall be decided by not less than three Judges of the High Court, [1][Chief Court or Judicial Commissioner's Court] to which it is referred, and in case of difference the opinion of the majority shall prevail.

58. If the High Court, [1][Chief Court or Judicial Commissioner's Court] is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf. Power of High Court, Chief Court or Judicial Commissioner's Court to call for further particulars as to case stated.

59. (*1*) The High Court, [1][Chief Court or Judicial Commissioner's Court], upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded. Procedure in disposing of case stated.

(*2*) The Court shall send to the Revenue-authority by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar ; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

60. (*1*) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (*a*) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court, [1][Chief Court or Judicial Commissioner's Court] to which, if he were the [2]Chief Controlling Revenue-authority, he would, under section 57, refer the same. Statement of case by other Courts to High Court, Chief Court or Judicial Commissioner's Court.

(*2*) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the [2]Chief Controlling

1 Subs. by the A. O. for "or Chief Court".
2 *See* foot-note 1 to s. 45, *supra*.

Revenue-authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(*3*) References made under sub-section (*1*), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

61. (*1*) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration. V of 1898.

(*2*) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(*3*) When any declaration has been recorded under sub-section (*2*), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(*4*) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp-law which the Collector considers him to have committed in respect of such instrument :

Provided that—

(*a*) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty ;

(*b*) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order

admitting any instrument in evidence, or of any certificate granted under section 42.

CHAPTER VII.

CRIMINAL OFFENCES AND PROCEDURE.

Penalty for executing, etc., instrument not duly stamped

[1]**62.** (*1*) Any person—

(*a*) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange [2][payable otherwise than on demand] [3]* or promissory note without the same being duly stamped ; or

(*b*) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped ; or

(*c*) voting or attempting to vote under any proxy not duly stamped ;

shall for every such offence be punishable with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(*2*) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

Penalty for failure to cancel adhesive stamp.

63. Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

Penalty for omission to comply with provisions of section 27.

64. Any person who, with intent to defraud the Government,—

(*a*) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth ; or,

---

[1] For modification of provisions in respect of instruments to which the Indian (Specified Instruments) Stamp Act, 1924 (13 of 1924) applies, *see* s. 3 of that Act.

[2] Ins by the Indian Finance Act, 1927 (5 of 1927), s. 5.

[3] The word "cheque" rep. by s. 5, *ibid.*

(*b*) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances ; or

(*c*) does any other act calculated to deprive the Government of any duty or penalty under this Act ;

shall be punishable with fine which may extend to five thousand rupees.

Penalty for refusal to give receipt, and for devices to evade duty on receipts.

65. Any person who,—

(*a*) being required under section 30 to give a receipt, refuses or neglects to give the same ; or,

(*b*) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered ;

shall be punishable with fine which may extend to one hundred rupees.

Penalty for not making out policy, or making one not duly stamped

66. Any person who—

(*a*) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance ; or

(*b*) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy ;

shall be punishable with fine which may extend to two hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

67. Any person drawing or executing a bill of exchange [1][payable otherwise than on demand] or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

Penalty for post-dating bills, and for other devices to defraud the revenue.

68. Any person who—

(*a*) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made ; or

(*b*) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same ; or

---

1 Ins. by the Indian Finance Act, 1927 (5 of 1927), s. 5.

(*c*) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force ;

shall be punishable with fine which may extend to one thousand rupees.

69. (*a*) Any person appointed to sell stamps who disobeys any rule made under section 74 ; and

(*b*) any person not so appointed who sells or offers for sale any stamp (other than a one-anna [1][or half an anna] adhesive stamp) ;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for breach of rule relating to sale of stamps and for unauthorised sale.

70 (*1*) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed shall be instituted without the sanction of the Collector or such other officer as [2][the collecting Government] generally, or the Collector specially, authorises in that behalf.

Institution and conduct of prosecutions.

(*2*) The [3]Chief Controlling Revenue-authority, or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offence.

(*3*) The amount of any such composition shall be recoverable in the manner provided by section 48.

71. No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Jurisdiction of Magistrates.

72. Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found as well as in any district or presidency-town in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

Place of trial.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

73. Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised in writing by the Collector to inspect for such purpose the registers, books, papers, documents and procedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

Books, etc., to be open to inspection.

1 Ins. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 3.
2 Subs. by the A. O. for "the L. G".
3 *See* foot-note 1 to s. 45, *supra*.

(*Chapter VIII.—Supplemental Provisions.*)

Powers to make rules relating to sale of stamps.

74. The [1][collecting Government] [2]* * * may make [3]rules for regulating—

(*a*) the supply and sale of stamps and stamped papers,

(*b*) the persons by whom alone such sale is to be conducted, and

(*c*) the duties and remuneration of such persons :

Provided that such rules shall not restrict the sale of one-anna [4][or half an anna] adhesive stamps.

Power to make rules generally to carry out Act.

75. The [5][collecting Government] may make rules[6] to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

Publication of rules.

76. [7][(*1*) All rules made under this Act shall be published in the Official Gazette.]

(*2*) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

Delegation of certain powers.

[8][**76A.** [9][The Central Government, subject to the provisions of section 124 (1) of the Government of India Act, 1935, and the Provincial Government, may by notification in the Official Gazette] delegate— 26 Geo. 5, c. 2.

(*a*) all or any of the powers conferred on it by sections 2 (*9*), 33 (*3*) (*b*), 70 (*1*), 74 and 78 to the Chief Controlling Revenue-authority ; and

(*b*) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (*1*) (*2*), 56 (*1*) and 70 (*2*) to such subordinate Revenue-authority as may be specified in the notification.]

Saving as to court-fees.

77. Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees.

Act to be translated and sold cheaply.

78. Every [1][Provincial Government] shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding four annas per copy.

79. [*Repeal.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

---

1 Subs. by the A. O. for "L. G.".
2 The words "subject to the control of the G. G. in C." rep. by the A. O.
3 For such rules, *see* different local Rules and Orders.
4 Ins. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 3.
5 Subs. by the A. O. for "G. G. in C.".
6 *See* the Indian Stamp Rules, 1925 : (Gen. R. & O., Vol. III, pp. 338 to 347).
7 Subs. by the A. O. for the original sub-section.
8 Ins. by the Decentralization Act, 1914 (4 of 1914), s. 2 and Sch., Part I.
9 Subs. by the A. O. for "The L. G. may, by notification in the local official Gazette".

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I.

STAMP-DUTY ON INSTRUMENTS.

(*See section 3.*)

	Description of Instrument.	Proper Stamp-duty.
	1. **ACKNOWLEDGMENT** of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession : provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	One anna.
X of 1865. V of 1873. V of 1881. VII of 1889.	2. **ADMINISTRATION-BOND,** including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889,—	
	(*a*) where the amount does not exceed Rs. 1,000 ..	The same duty as a Bond (No. 15) for such amount.
	(*b*) in any other case	Five rupees.
	3. **ADOPTION-DEED,** that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt.	Ten rupees.
	ADVOCATE. *See* ENTRY AS AN ADVOCATE (No. 30).	
	4. **AFFIDAVIT,** including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	One rupee.
	Exemptions.	
	Affidavit or declaration in writing when made—	
VIII of 1911. XIV of 1932.	[1][(*a*) as a condition of enrolment under the Indian Army Act, 1911, [2][or the Indian Air Force Act, 1932];]	
	(*b*) for the immediate purpose of being filed or used in any Court or before the officer of any Court ; or	
	(*c*) for the sole purpose of enabling any person to receive any pension or charitable allowance.	

1 Subs. by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and Sch. I, for the original clause.

2 Ins. by the Indian Air Force Act, 1932 (14 of 1932), s. 130 and Sch.

(Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
[1] [5. **AGREEMENT OR MEMORANDUM OF AN AGREEMENT—**	
(*a*) if relating to the sale of a bill of exchange ..	Two annas.
(*b*) if relating to the sale of a Government security or share in an incorporated company or other body corporate ;	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the security or share.
(*c*) if not otherwise provided for	Eight annas.
Exemptions.	
Agreement or memorandum of agreement—	
(*a*) for or relating to the sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43 ;	
(*b*) made in the form of tenders to the [2][Central Government] for or relating to any loan ;	
IX of 1874. (*c*) made under the European Vagrancy Act, 1874, section 17].	
AGREEMENT TO LEASE. *See* LEASE (No. 35).	
[3][6. **AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE,** that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	
(2) the pawn or pledge of moveable property,	
where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(*a*) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement ;	The same duty as a Bill of Exchange [No. 13 (*b*)] for the amount secured.

1 Subs. by the Indian Stamp (Amendment) Act, 1910 (6 of 1910), s. 3, for the original Article (5).

2 Subs. by the A. O. for "G. of I.".

3 Subs. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 8 (*1*) for the original Article.

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE—*contd.*	
(*b*) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 13 (*b*)] for the amount secured.
Exemption.	
Instrument of pawn or pledge of goods if unattested.]	
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, moveable or immoveable, where made by any writing not being a Will.	Fifteen rupees.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(*a*) where the amount does not exceed Rs. 1,000 ..	The same duty as a Bond (No. 15) for such amount.
(*b*) in any other case	Five rupees.
Exemptions.	
(*a*) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
(*b*) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP-DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being ARTICLES OF CLERKSHIP (No. 11).	Five rupees.
Exemption.	
XIX of 1850. Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.	
10. ARTICLES OF ASSOCIATION OF A COMPANY	Twenty-five rupees.
Exemption.	
VI of 1882. Articles of any Association not formed for profit and registered under section 26 of the Indian Companies Act, 1882.	
See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).	

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
11. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court.	Two hundred and fifty rupees.
ASSIGNMENT. *See* CONVEYANCE (No. 23), TRANSFER (No. 62), and TRANSFER OF LEASE (No. 63), as the case may be.	
ATTORNEY. *See* ENTRY AS AN ATTORNEY (No. 30), and POWER-OF-ATTORNEY (No. 48).	
AUTHORITY TO ADOPT. *See* ADOPTION-DEED (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(*a*) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000 ;	The same duty as a Bond (No. 15) for such amount.
(*b*) in any other case	Five rupees.
Exemption.	
Bom. VI of 1873. Bom. III of 1874. Award under the [1]Bombay District Municipal Act, 1873, section 81, or the [2]Bombay Hereditary Offices Act, 1874, section 18.	
13. BILL OF EXCHANGE [as defined by s. 2 (2) [3]*], not being a BOND, bank-note or currency-note—	
[4]* * * * * *	* * * * *

[1] *See* now the Bombay District Municipal Act, 1901 (Bom. 3 of 1901), Bom. Code.
[2] Bom. Code.
[3] The word, figure and brackets "and (3)" rep. by the Indian Finance Act, 1927 (5 of 1927), s. 5.
[4] The entry (*a*) rep. by s. 5, *ibid.*

(Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.		
	If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
13. BILL OF EXCHANGE—*contd.*	Rs. a. p.	Rs. a. p.	Rs. a. p.
[1][(*b*) where payable otherwise than on demand, but not more than one year after date or sight—			
Rs.			
if the amount of the bill or note does not exceed 200	0 3 0	0 2 0	0 1 0
if it exceeds Rs. 200 and does not exceed 400	0 6 0	0 3 0	0 2 0
Ditto 400 ditto 600	0 9 0	0 5 0	0 3 0
Ditto 600 ditto 800	0 12 0	0 6 0	0 4 0
Ditto 800 ditto 1,000	0 15 0	0 8 0	0 5 0
Ditto 1,000 ditto 1,200	1 2 0	0 9 0	0 6 0
Ditto 1,200 ditto 1,600	1 8 0	0 12 0	0 8 0
Ditto 1,600 ditto 2,500	2 4 0	1 2 0	0 12 0
Ditto 2,500 ditto 5,000	4 8 0	2 4 0	1 8 0
Ditto 5,000 ditto 7,500	6 12 0	3 6 0	2 4 0
Ditto 7,500 ditto 10,000	9 0 0	4 8 0	3 0 0
Ditto 10,000 ditto 15,000	13 8 0	6 12 0	4 8 0
Ditto 15,000 ditto 20,000	18 0 0	9 0 0	6 0 0
Ditto 20,000 ditto 25,000	22 8 0	11 4 0	7 8 0
Ditto 25,000 ditto 30,000	27 0 0	13 8 0	9 0 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000	9 0 0	4 8 0	3 0 0]
(*c*) where payable at more than one year after date or sight.	The same duty as a BOND (No. 15) for the same amount.		

[1] Subs. by the Indian Stamp (Amendment) Act, 1912 (1 of 1912), s. 2, for the original cl. (*b*).

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
[1]14. **BILL OF LADING** (including a through bill of lading).	Four annas. *N.B.*—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.
Exemptions.	
(*a*) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the [2]Indian Ports Act, 1889, and are to be delivered at another place within the limits of the same port.	
X of 1889.	
(*b*) Bill of lading when executed out of British India and relating to property to be delivered in British India.	
15. **BOND** [as defined by section 2 (*5*)] not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by the Court-fees Act, 1870,—	
VII of 1870.	
where the amount or value secured does not exceed Rs. 10	Two annas.
where it exceeds Rs. 10 and does not exceed Rs. 50	Four annas.
Ditto 50 ditto 100	Eight annas.
Ditto 100 ditto 200	One rupee.
Ditto 200 ditto 300	One rupee eight annas.
Ditto 300 ditto 400	Two rupees.
Ditto 400 ditto 500	Two rupees eight annas.
Ditto 500 ditto 600	Three rupees.
Ditto 600 ditto 700	Three rupees eight annas.
Ditto 700 ditto 800	Four rupees.
Ditto 800 ditto 900	Four rupees eight annas.
Ditto 900 ditto 1,000	Five rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000	Two rupees eight annas.
See ADMINISTRATION-BOND (No. 2), BOTTOMRY BOND (No. 16), CUSTOMS BOND (No. 26), INDEMNITY-BOND (No. 34), RESPONDENTIA BOND (No. 56), SECURITY BOND (No. 57).	

[1] Bills of lading of Inland Steamer Companies have been exempted from the duty payable under this article, *see* Gazette of India, 1904, Pt. I, p. 38.

[2] *See* now the Indian Ports Act, 1908 (15 of 1908).

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
15. BOND—*contd.*	
Exemptions.	
Bond, when executed by—	
Ben. III of 1876. (*a*) headmen nominated under rules framed in accordance with the [1]Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;	
(*b*) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.	
16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.	The same duty as a Bond (No. 15) for the same amount.
17. CANCELLATION—Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Five rupees.
See also RELEASE (No. 55), REVOCATION OF SETTLEMENT (No. 58-B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64-B).	
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue-Officer—	
(*a*) where the purchase-money does not exceed Rs. 10;	Two annas.
(*b*) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25;	Four annas.
(*c*) in any other case	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.
19. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.	[2][Two annas.]
See also LETTER OF ALLOTMENT OF SHARES (No. 36).	

[1] Ben. Code.

[2] Subs. by the Indian Stamp (Amendment) Act, 1923 (43 of 1923), s. 2 for " One anna ".

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
20. **CHARTER-PARTY**, that is to say, any instrument (except an agreement tor the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	One rupee.
[1]* * * * * * * *	
22. **COMPOSITION-DEED**, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors.	Ten rupees.
23. **CONVEYANCE** [as defined by section 2 (*10*)] not being a TRANSFER charged or exempted under No. 62,—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50 ;	Eight annas.
where it exceeds Rs. 50 but does not exceed Rs. 100 ;	One rupee.
where it exceeds Rs. 100 but does not exceed Rs. 200 ;	Two rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300 ;	Three rupees.
where it exceeds Rs. 300 but does not exceed Rs. 400 ;	Four rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500 ;	Five rupees.
where it exceeds Rs. 500 but does not exceed Rs. 600 ;	Six rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700 ;	Seven rupees.
where it exceeds Rs. 700 but does not exceed Rs. 800 ;	Eight rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900 ;	Nine rupees.
where it exceeds Rs. 900 but does not exceed Rs. 1,000 ;	Ten rupees.

[1] **Article 21 rep. by the Indian Finance Act, 1927 (5 of 1927), s. 5.**

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
23. CONVEYANCE—*contd.*	
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees.
Exemption.	
XX of 1847. Assignment of copyright by entry made under the Indian Copyright Act, 1847, section 5.	
CO-PARTNERSHIP-DEED. *See* PARTNERSHIP (No. 46).	
24. COPY OR EXTRACT certified to be a true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(*i*) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee ;	Eight annas.
(*ii*) in any other case	One rupee.
Exemptions.	
(*a*) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
[1][(*b*) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, [2] [divorces], deaths or burials.]	
25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid,—	
(*a*) if the duty with which the original instrument is chargeable does not exceed one rupee ;	The same duty as is payable on the original.
(*b*) in any other case	One rupee.
Exemption.	
Counterpart of any lease granted to a cultivator when such lease is exempted from duty.	
26. CUSTOMS-BOND—	
(*a*) where the amount does not exceed Rs. 1,000 ..	The same duty as a Bond (No. 15) for such amount.
(*b*) in any other case	Five rupees.

[1] Subs. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 7 (*1*), for the original cls. (*b*) and (*c*).

[2] Ins. by the Repealing and Amending Act, 1914 (10 of 1914), s. 2 and Sch. I.

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
[1][27. **DEBENTURE** (whether a mortgage debenture or not), being a marketable security transferable—	
(*a*) by endorsement or by a separate instrument of transfer;	The same duty as a Bond (No. 15) for the same amount.
(*b*) by delivery	The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
Explanation.—The term "Debenture" includes any interest coupons attached thereto but the amount of such coupons shall not be included in estimating the duty.	
Exemption.	
A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders: provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.	
See also BOND (No. 15), and SECTIONS 8 and 55.]	
DECLARATION OF ANY TRUST. *See* TRUST (No. 64).	
28. **DELIVERY-ORDER IN RESPECT OF GOODS,** that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	One anna.
DEPOSIT OF TITLE-DEEDS. [2][*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).]	
DISSOLUTION OF PARTNERSHIP. *See* PARTNERSHIP (No. 46).	

[1] Subs. by the Indian Stamp (Amendment) Act, 1910 (6 of 1910), s. 3 (*iii*), for the original Article.

[2] Subs. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 8 (*2*), for "*See* AGREEMENT by way of EQUITABLE MORTGAGE (No. 6)".

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
29. DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	One rupee.
DOWER—Instrument of. *See* SETTLEMENT (No. 58).	
DUPLICATE.—*See* COUNTERPART (No. 25).	
30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT [1][under the Indian Bar Councils Act, 1926, or] in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners Act, 1884—	
XXXVIII of 1926. IX of 1884.	
(*a*) in the case of an Advocate or Vakil	Five hundred rupees
(*b*) in the case of an Attorney	Two hundred and fifty rupees.
Exemption.	
Entry of an advocate, vakil or attorney on the roll of any High Court when he has previously been enrolled in a High Court.	
[2] * * * * * * * *	
31. EXCHANGE OF PROPERTY—Instrument of. ..	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT. *See* COPY (No. 24).	
32. FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(*a*) when the original mortgage is one of the description referred to in clause (*a*) of Article No. 40 (that is, with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.
(*b*) when such mortgage is one of the description referred to in clause (*b*) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given, or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.

[1] Ins. by the Indian Bar Councils Act, 1926 (38 of 1926), s. 19 and Sch.

[2] The entry "EQUITABLE MORTGAGE" rep. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 8 (*3*).

(Schedule I.—Stamp-duty on Instruments.)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
32. FURTHER CHARGE—*contd.*	
(ii) if possession is not so given . ..	The same duty as a Bond (No 15) for the amount of the further charge secured by such instrument.
33. GIFT—Instrument of, not being a SETTLEMENT (No. 58) OR WILL OR TRANSFER (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.
HIRING AGREEMENT or agreement for service. *See* AGREEMENT (No. 5).	
34. INDEMNITY-BOND.	The same duty as a Security-Bond (No. 57) for the same amount.
INSPECTORSHIP-DEED. *See* COMPOSITION-DEED (No. 22).	
INSURANCE. *See* POLICY OF INSURANCE (No. 47).	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(*a*) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year but not more than three years;	The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term in excess of three years;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(v) where the lease purports to be in perpetuity;	The same duty as a Conveyance (No. 23) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
35. LEASE—*contd.*	
(*b*) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(*c*) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.
Exemptions.	
(*a*) Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.	
[1] * * * * * * * *	
36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company, or in respect of any loan to be raised by any company or proposed company.	[2][Two annas.]
See also CERTIFICATE OR OTHER DOCUMENT (No. 19).	
37. LETTER OF CREDIT, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn.	[2][Two annas.]
LETTER OF GUARANTEE. *See* AGREEMENT (No. 5).	

[1] Exemption (*b*) rep. by the A. O.

[2] Subs. by the Indian Stamp (Amendment) Act, 1923 (43 of 1923), s. 2, for "One anna".

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
38. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Ten rupees.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(*a*) if accompanied by articles of association under section 37 of the Indian Companies Act, 1882; (VI of 1882.)	Fifteen rupees.
(*b*) if not so accompanied	Forty rupees.
Exemption.	
Memorandum of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1882. (VI of 1882.)	
40. MORTGAGE-DEED, not being [1][an AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)], BOTTOMRY BOND (No. 16), MORTGAGE OF A CROP (No. 41), RESPONDENTIA BOND (No. 56), OR SECURITY BOND (No. 57)—	
(*a*) When possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(*b*) when [2] * * possession is not given or agreed to be given as aforesaid;	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanation.—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.	
(*c*) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above mentioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	Eight annas.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Eight annas.

[1] Subs. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 8 (*4*) (*a*), for "an AGREEMENT TO MORTGAGE (No. 6)".

[2] The words "at the time of execution" rep. by s. 8 (*4*) (*b*), *ibid.*

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp duty.
40. MORTGAGE-DEED—*contd.*	
Exemptions.	
(*1*) Instruments, executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances. (XIX of 1883. XII of 1884.)	
(*2*) Letter of hypothecation accompanying a bill of exchange.	
[1] * * * * * * * * *	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(*a*) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200;	One anna.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	One anna.
(*b*) when the loan is repayable more than three months, but not more than [2][eighteen months], from the date of the instrument—	
for every sum secured not exceeding Rs. 100 ..	[3][Two annas.]
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	[3][Two annas.]
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	One rupee.
See also PROTEST OF BILL OR NOTE (No. 50).	

[1] Exemption (*3*) rep. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 8 (*4*) (*c*).

[2] Subs. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 7 (*2*), for "one year".

[3] Subs. by Act 15 of 1904, s. 8 (*5*), for "Four annas".

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
[1][43. **NOTE OF MEMORANDUM** sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—	
(*a*) of any goods exceeding in value twenty rupees;	Two annas.
(*b*) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the stock or security.]
44. NOTE OF PROTEST BY THE MASTER OF A SHIP.	Eight annas.
See also PROTEST BY THE MASTER OF A SHIP (No. 51).	
ORDER FOR THE PAYMENT OF MONEY. *See* BILL OF EXCHANGE (No. 13).	
45. PARTITION—Instrument of [as defined by s 2 (*15*)].	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.

N.B.—The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated:

Provided always that—

(*a*) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas:

(*b*) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue:

(*c*) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas.

[1] Subs. by the Indian Stamp (Amendment) Act, 1910 (6 of 1910), s. 3 (*iv*), for the original Article.

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.	
46. PARTNERSHIP—		
A.—INSTRUMENT OF—		
(*a*) where the capital of the partnership does not exceed Rs. 500 ;	Two rupees eight annas.	
(*b*) in any other case	Ten rupees.	
B.—DISSOLUTION OF—	Five rupees.	
[1][**PAWN OR PLEDGE.**—*See* AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).]		
47. POLICY OF INSURANCE.—	If drawn singly.	If drawn in duplicate, for each part.
[2][A.—SEA-INSURANCE (*see* section 7)—		
(*1*) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy ;	One anna ..	Half an anna.
(ii) in any other case, in respect of every full sum of [3][one thousand five hundred rupees] and also any fractional part of [3][one thousand five hundred rupees] insured by the policy ;	[4][One anna] ..	[5][Half an anna.]
(*2*) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—		
where the insurance shall be made for any time not exceeding six months :	Two annas ..	One anna.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas ..	Two annas.

[1] Ins. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 8 (*6*).

[2] Subs. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 7 (*3*), for the original Divisions A and B.

[3] Subs. by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and Sch. I, for "one thousand rupees".

[4] Subs. by s. 2 and Sch. I, *ibid.*, for "Two annas".

[5] Subs. by s. 2 and Sch. I, *ibid.*, for "One anna".

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
47. POLICY OF INSURANCE—*contd.*	
B.—[1][FIRE-INSURANCE AND OTHER CLASSES OF INSURANCE, NOT ELSEWHERE INCLUDED IN THIS ARTICLE, COVERING GOODS, MERCHANDISE, PERSONAL EFFECTS, CROPS, AND OTHER PROPERTY AGAINST LOSS OR DAMAGE]—	
(*1*) in respect of an original policy—	
(i) when the sum insured does not exceed Rs. 5,000 ;	Eight annas.
(ii) in any other case	One rupee.
and	
(*2*) in respect of each receipt for any payment of a premium on any renewal of an original policy.	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53.]
C.—ACCIDENT AND SICKNESS-INSURANCE—	
(*a*) against railway accident, valid for a single journey only.	One anna.
Exemption.	
When issued to a passenger travelling by the intermediate or the third class in any railway.	
(*b*) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000, and also where such amount exceeds Rs. 1,000, for every Rs. 1,000, or part thereof.	Two annas : [2][Provided that, in case of a policy of insurance against death by accident when the annual premium payable does not exceed Rs. 2-8-0 *per* Rs. 1,000, the duty on such instrument shall be one anna for every Rs. 1,000 or part thereof of the maximum amount which may become payable under it.]
[3][CC.—INSURANCE BY WAY OF INDEMNITY against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the Workmen's Compensation Act, 1923, for every Rs. 100 or part thereof payable as premium.	One anna.]

VIII of 1923.

[1] Subs. by the Indian Stamp (Amendment) Act, 1923 (43 of 1923), s. 2 (*ii*), for "FIRE-INSURANCE".

[2] Ins. by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and Sch. I.

[3] Ins. by the Indian Stamp (Amendment) Act, 1925 (15 of 1925), s. 2.

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.	
[1][D.—LIFE INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE as is described in Division E of this article—	If drawn singly.	If drawn in duplicate, for each part.
(*i*) for every sum insured not exceeding Rs. 250;	Two annas.	One anna.
(*ii*) for every sum insured exceeding Rs. 250 but not exceeding Rs. 500;	Four annas.	Two annas.
(*iii*) for every sum insured exceeding Rs. 500 but not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof in excess of Rs. 1,000.	Six annas.	Three annas.
Exemption.		
Policies of life-insurance granted by the Director General of Post Offices in accordance with rules for Postal Life-Insurance issued under the authority of the [2][Central Government].]		
E.—RE-INSURANCE BY AN INSURANCE COMPANY, which has granted a POLICY [3][of the nature specified in Division A or Division B of this Article] with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.	One-quarter of the duty payable in respect of the original insurance but not less than one anna or more than one rupee.	
General Exemption.		
Letter of cover or engagement to issue a policy of insurance:		
Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.		
48. **POWER-OF-ATTORNEY** [as defined by section 2 (*21*)], not being a PROXY (No. 52),—		
(*a*) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	Eight annas.	
XV of 1882. (*b*) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882;	Eight annas.	

[1] Subs. by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and Sch. I, for original Division D.

[2] Subs. by the A. O. for "G. G. in C.".

[3] Subs. by the Indian Stamp (Amendment) Act, 1923 (43 of 1923), s. 2, for "OF SEA-INSURANCE OR A POLICY OF FIRE-INSURANCE".

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
48. POWER-OF-ATTORNEY—*contd.*	
(*c*) when authorizing one person or more to act in a single transaction other than the case mentioned in clause (*a*);	One rupee.
(*d*) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally;	Five rupees.
(*e*) when authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Ten rupees.
(*f*) when giving for consideration and authorizing the attorney to sell any immoveable property;	The same duty as a Conveyance (No. 23) for the amount of the consideration.
(*g*) in any other case	One rupee for each person authorized.
III of 1877.	*N. B.*—The term "registration" includes every operation incidental to registration under the [1] Indian Registration Act, 1877.
Explanation.—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	
[2][**49. PROMISSORY NOTE** [as defined by section 2 (*22*)]—	
(*a*) when payable on demand—	
(i) when the amount or value does not exceed Rs. 250;	One anna.
(ii) when the amount or value exceeds Rs. 250, but does not exceed Rs. 1,000;	Two annas.
(iii) in any other case	Four annas.
(*b*) when payable otherwise than on demand ..	The same duty as a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand.]
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or promissory note.	One rupee.

[1] *See* now the Indian Registration Act, 1908 (16 of 1908).

[2] Subs. by the Indian Stamp (Amendment) Act, 1923 (43 of 1923), s. 2, for the original Article.

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
51. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such. *See also* NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).	One rupee.
52. PROXY empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (*a*) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (*b*) a local authority, or (*c*) proprietors, members or contributors to the funds of any institution.	[1][Two annas.]
53. RECEIPT [as defined by section 2 (*23*)] for any money or other property the amount or value of which exceeds twenty rupees. *Exemptions.* Receipt— (*a*) endorsed on or contained in any instrument duly stamped, [2][or any instrument exempted] under the proviso to section 3 (instruments executed on behalf of the [3][Crown]) [4][or any cheque or bill of exchange payable on demand] acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal-money, interest or annuity, or other periodical payment thereby secured; (*b*) for any payment of money without consideration; (*c*) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of Fort St. George and Bombay) of Inam lands;	One anna.

[1] Subs. by the Indian Stamp (Amendment) Act, 1923 (43 of 1923), s. 2, for "One anna".
[2] Subs. by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and Sch. I, for "or exempted".
[3] Subs. by the A. O., for "Govt.".
[4] Ins. by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and Sch. I.

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
53. RECEIPT—*contd.*	
Exemptions—contd.	
(*d*) for pay or allowances by non-commissioned [1][or petty] officers, [2][soldiers, [1][sailors] or airmen] of [3][His Majesty's military, [1][naval] or air forces] when serving in such capacity, or by mounted police-constables;	
(*e*) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned [1][or petty] officer, [4][soldier, [1][sailor] or airman] of [5][any of the said forces] and serving in such capacity;	
(*f*) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned [1][or petty] officers, [2][soldiers, [1][sailors] or airmen], and not serving the [6][Crown] in any other capacity;	
(*g*) given by a headman or lambardar for land-revenue or taxes collected by him;	
(*h*) given for money or securities for money deposited in the hands of any banker, to be accounted for:	
Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for:	
Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in, any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.	
[7][*See also* POLICY OF INSURANCE [No. 47-B (*2*)].]	

[1] Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

[2] Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "or soldiers".

[3] Subs. by s. 2 and Sch. I, *ibid.* for "Her Majesty's Army or Her Majesty's Indian Army".

[4] Subs. by s. 2 and Sch. I, *ibid.* for "or soldier".

[5] Subs. by s. 2 and Sch. I, *ibid.* for "either of the said Armies".

[6] Subs. by the A. O. for "Govt.".

[7] Ins. by the Indian Stamp (Amendment) Act, 1906 (5 of 1906), s. 7 (4).

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(*a*) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.
(*b*) in any other case	Ten rupees.
55. RELEASE, that is to say, any instrument [1][(not being such a release as is provided for by section 23A)] whereby a person renounces a claim upon another person or against any specified property—	
(*a*) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.
(*b*) in any other case	Five rupees.
56. RESPONDENTIA BOND, that is to say, lany instrument securing a loan on the cargo aden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bond (No. 15) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT. *See* SETTLEMENT (No. 58); TRUST (No. 64).	
57. SECURITY BOND OR MORTGAGE-DEED executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract,—	
(*a*) when the amount secured does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for the amount secured.
(*b*) in any other case	Five rupees.
Exemptions.	
Bond or other instrument, when executed—	
(*a*) by headmen nominated under rules framed in accordance with the [2]Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;	
(*b*) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem;	

Ben. III of 1876.

[1] Ins. by the Indian Stamp (Amendment) Act, 1904 (15 of 1904), s. 8 (7)

[2] Ben. Code.

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
57. SECURITY BOND OR MORTGAGE-DEED—*contd.*	
Exemptions—contd.	
(*c*) under No. 3A of the rules made by the [1][Provincial Government] under section 70 of the [2]Bombay Irrigation Act, 1879; (Bom. VII of 1879.)	
(*d*) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances; (XIX of 1883. XII of 1884.)	
(*e*) executed by officers of [3][the Crown] or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	
58. SETTLEMENT—	
A.—INSTRUMENT OF, (including a deed of dower) ..	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.
Exemptions.	
(*a*) Deed of dower executed on the occasion of a marriage between Muhammadans.	
[4] * * * * * * * * *	
B.—REVOCATION OF—	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation but not exceeding ten rupees.
See also TRUST (No. 64).	

[1] Subs. by the A. O., for "Governor of Bombay in Council".
[2] Bom. Code.
[3] Subs. by the A. O., for "Government".
[4] Exemption (*b*) rep. by the A. O.

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
VI of 1882. **59. SHARE WARRANTS** to bearer issued under the [2] Indian Companies Act, 1882.	[1][One and a half times] the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.
Exemption.	
Share warrant when issued by a company in pursuance of the [2] Indian Companies Act, 1882 section 30, to have effect only upon payment, as composition for that duty, to the Collector of Stamp-revenue, of—	
(*a*) [3][one and a half] per centum of the whole subscribed capital of the company, or	
(*b*) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital —[3][one and a half] per centum of the additional capital so issued.	
SCRIP. *See* CERTIFICATE (No. 19)	
60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.	One anna.
61. SURRENDER OF LEASE—	
(*a*) when the duty with which the lease is chargeable does not exceed five rupees;	The duty with which such lease is chargeable.
(*b*) in any other case	Five rupees.
Exemption.	
Surrender of lease, when such lease is exempted from duty.	
62. TRANSFER (whether with or without consideration)—	
(*a*) of shares in an incorporated company or other body corporate;	[4][One-half] of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.
(*b*) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	[4][One-half] of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.

[1] Subs. by the Indian Stamp (Amendment) Act, 1910 (6 of 1910), s. 3 (*v*), for "Three-quarters of".

[2] *See* now the Indian Companies Act, 1913 (7 of 1913).

[3] Subs. by the Indian Stamp (Amendment) Act, 1910 (6 of 1910), s. 3 (*v*), for "three-quarters".

[4] Subs. by s. 3 (*vi*), *ibid.* for "One-quarter".

(*Schedule I.—Stamp-duty on Instruments.*)

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
62. TRANSFER—*contd.*	
(*c*) of any interest secured by a bond, mortgage-deed or policy of insurance,—	
(i) if the duty on such bond, mortgage-deed or policy does not exceed five rupees :	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.
(ii) in any other case	Five rupees.
II of 1874. (*d*) of any property under the [1] Administrator General's Act, 1874, section 31 ;	Ten rupees.
(*e*) of any trust-property without consideration from one trustee to another trustee or from a trustee to a beneficiary.	Five rupees or such smaller amount as may be chargeable under clauses (*a*) to (*c*) of this Article.
Exemptions.	
Transfers by endorsement—	
(*a*) of a bill of exchange, cheque or promissory note ;	
(*b*) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods ;	
(*c*) of a policy of insurance ;	
(*d*) of securities of the [2][Central Government].	
See also section 8.	
63. TRANSFER OF LEASE by way of assignment and not by way of under-lease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
Exemption.	
Transfer of any lease exempt from duty.	
64. TRUST—	
A.—DECLARATION OF—of, or concerning, any property when made by any writing not being a WILL.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding fifteen rupees.

[1] *See* now the Administrator General's Act, 1913 (3 of 1913).

[2] Subs. by the A.O. for "G. of I.".

SCHEDULE I—*concld.*

Description of Instrument.	Proper Stamp-duty.
64. TRUST—*contd.*	
B.—REVOCATION OF—of, or concerning, any property when made by any instrument other than a WILL.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding ten rupees.
See also SETTLEMENT (No. 58).	
VALUATION. *See* APPRAISEMENT (No. 8).	
VAKIL. *See* ENTRY AS A VAKIL (No. 30).	
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Four annas.

SCHEDULE II.—[Enactments repealed.] Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.

THE GOVERNMENT BUILDINGS ACT, 1899.

ACT No. IV OF 1899.[1]

[*3rd February, 1899.*]

An Act to provide for the exemption from the operation of municipal building laws of certain buildings and lands which are the property, or in the occupation, of the Government and situate within the limits of a municipality.

WHEREAS it is expedient to provide for the exemption from the operation of municipal building laws of certain buildings and lands which are the property, or in the occupation, of the Government and situate within the limits of a municipality ; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Government Buildings Act, 1899. Short title and extent.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 256 ; for Report of the Select Committee, *see ibid.*, 1899, Pt. V, p. 15 ; and for Proceedings in Council, *see ibid.*, 1899, Pt. VI, pp. 2, 15 and 20.

This Act has been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872) and in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913).

(*2*) It extends to the whole of British India.[1]

"Municipal authority" defined.

2. In this Act the expression "municipal authority" includes a municipal corporation or a body of municipal commissioners constituted by, or under the provisions of, any law or enactment for the time being in force.

Exemption of certain Government buildings from municipal laws to regulate the erection, etc., of buildings within municipalities.

3. Nothing contained in any law or enactment for the time being in force to regulate the erection. re-erection, construction, alteration or maintenance of buildings within the limits of any municipality shall apply to any building used or required for the public service or for any public purpose, which is the property, or in the occupation, of [2][the Crown], or which is to be erected on land which is the property, or in the occupation, of [2][the Crown] :

Provided that, where the erection, re-erection, construction or material structural alteration of any such building as aforesaid (not being a building connected with ~~Imperial~~ defence, or a building the plan or construction of which ought, in the opinion of [2][the Government concerned], to be treated as confidential or secret) is contemplated, reasonable notice of the proposed work shall be given to the municipal authority before it is commenced.

Objections or suggestions as to erection, etc., of certain Government buildings within municipalities how to be made and dealt with.

4. (*1*) In the case of any such building as is mentioned in the last preceding section (not being a building connected with ~~Imperial~~ defence or a building the plan or construction of which ought, in the opinion of [2][the Government concerned], to be treated as confidential or secret), the municipal authority, or any person authorized by it in this behalf, may, with the permission of the [3][Provincial Government] previously obtained, but not otherwise, and subject to any restrictions or conditions which may, by general or special order, be imposed by the [3][Provincial Government], inspect the land and building and all plans connected with its erection, re-erection, construction or material structural alteration, as the case may be, and may submit to the [3][Provincial Government] a statement in writing of any objections or suggestions which such municipal authority may deem fit to make with reference to such erection, re-erection, construction or material structural alteration.

(*2*) Every objection or suggestion submitted as aforesaid shall be considered by the [3][Provincial Government], which shall, after such investigation (if any) as it shall think advisable, pass orders thereon, and the building referred to therein shall be erected, re-erected, constructed or altered, as the case may be, in accordance with such orders :

---

1 The word "and" and sub-section (*3*) rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

2 Subs. by the A. O. for "the Govt.".

3 Subs. by the A. O. for "L. G.".

Provided that, if the [1][Provincial Government] overrules or disregards any such objection or suggestion as aforesaid, it shall give its reasons for so doing in writing.

[2]* * * * * * *

THE INDIAN ARBITRATION ACT, 1899.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Application.
3. Exclusion of certain enactments in certain cases where Act applies.
4. Definitions.
5. Submission to be irrevocable except by leave of Court.
6. Provisions implied in submissions.
7. Reference to arbitrator to be appointed by third person.
8. Power for the Court in certain cases to appoint an arbitrator, umpire or third arbitrator.
9. Power for parties in certain cases to supply vacancy.
10. Powers of arbitrator.
11. Award to be signed and filed.
12. Power for Court to enlarge time for making award.
13. Power to remit award.
14. Power to set aside award.
15. Award when filed to be enforceable as a decree.
16. Power to remove arbitrator or umpire.
17. Costs.
18. Forms.
19. Power to stay proceedings where there is a submission.
20. Power for High Court to make rules
21. [*Repealed*].
22. Crown to be bound.
23. [*Repealed*].

THE FIRST SCHEDULE.—Provisions to be implied in submissions.
THE SECOND SCHEDULE.—Forms.

---

1 Subs. by the A. O. for "L. G.".
2 Sub-section (*3*) rep. by the A. O.

ACT No. IX OF 1899.[1]

[*3rd March, 1899.*]

An Act to amend the Law relating to Arbitration.

WHEREAS it is expedient to amend the law relating to arbitration by agreement without the intervention of a Court of Justice ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Arbitration Act, 1899.

(*2*) It extends to the whole of British India ; and

(*3*) It shall come into force on the first day of July, 1899.

Application.

2.[2]* * * This Act shall apply only in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted in a Presidency-town :

Provided that the [3][Provincial Government] [4]* * * may, by notification in the [5][Official Gazette], declare this Act applicable in any other local area[6] as if it were a Presidency-town.

Exclusion of certain enactments in certain cases where Act applies.

3. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, and sections 523 to 526 of the Code of Civil Procedure[7] shall not apply to any submission or arbitration to which the provisions of this Act for the time being apply : I of 1877. XIV of 1882.

Provided that nothing in this Act shall affect any arbitration pending in a Presidency-town at the commencement of this Act or in any local area at the date of the application thereto of this Act as aforesaid, but shall apply to every arbitration commenced after the commencement of this Act or the date of the application thereof, as the case may be, under any agreement or order previously made.

[8]* * * * * * *

Definitions.

4. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "the Court" means, in the Presidency-towns, the High Court, and, elsewhere, the Court of the District Judge ; and

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 286 ; for Report of the Select Committee, *see ibid.*, 1899, Pt. V, p. 31 ; for Proceedings in Council, *see ibid.*, 1898, Pt. VI, p. 366, and *ibid.*, 1899, Pt. VI, pp. 17, 52 and 60.

2 The words "Subject to the provisions of section 23" rep. by the A. O.

3 Subs. by the A. O. for "L. G.".

4 The words "with the previous sanction of the G. G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

5 Subs. by the A. O. for "local official Gazette".

6 The Act has been declared applicable to the town of Karachi, *see* Bombay Government Gazette, 1899, Pt. I, p. 1127. For such notification in the Punjab, *see* Punjab Gazette, 1915, Pt. I, p. 147 : in the local area so notified, the Act applies only to written agreements, submissions or references, in which the parties expressly declare that it shall apply, *see* the Punjab Arbitration Amendment Act, 1911 (Punjab 1 of 1911), s. 2.

7 *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908), Sch. II, paragraphs 17 to 21.

8 The second proviso rep. by the Indian Companies Act, 1913 (7 of 1913), s. 290 and Sch. IV.

[1](*b*) "submission" means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

5. A submission, unless a different intention is expressed therein, shall be irrevocable, except by leave of the Court.

Submission to be irrevocable except by leave of Court.

6. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the First Schedule, in so far as they are applicable to the reference under submission.

Provisions implied in submissions.

7. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein.

Reference to arbitrator to be appointed by third person.

Such person may be designated either by name or as the holder for the time being of any office or appointment.

Illustration.

The parties to a submission may agree that any dispute arising between them in respect of the subject-matter of the submission shall be referred to an arbitrator to be appointed by the Bengal Chamber of Commerce, or, as the case may be, to an arbitrator to be appointed by the President for the time being of the Bengal Chamber of Commerce.

8. (*1*) In any of the following cases :—

Power for the Court in certain cases to appoint an arbitrator, umpire or third arbitrator.

(*a*) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator ;

(*b*) if an appointed arbitrator neglects or refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy ;

(*c*) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him ;

(*d*) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy ;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to concur in appointing an arbitrator, umpire or third arbitrator.

---

[1] This definition has been supplemented in the U. P. by the U. P. Arbitration (Amendment) Act, 1912 (U. P. 1 of 1912).

(*2*) If the appointment is not made within seven clear days after the service of the notice, the Court may, on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator, umpire or third arbitrator, who shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

Power for parties in certain cases to supply vacancy.

9. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed therein,—

(*a*) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, or is removed, the party who appointed him may appoint a new arbitrator in his place ;

(*b*) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with a written notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent :

Provided that the Court may set aside any appointment made in pursuance of clause (*b*) of this section.

Powers of arbitrator

10. The arbitrators or umpire acting under a submission shall, unless a different intention is expressed therein,—

(*a*) have power to administer oaths to the parties and witnesses appearing ;

(*b*) have power to state a special case for the opinion of the Court on any question of law involved ; and

(*c*) have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Award to be signed and filed.

11. (*1*) When the arbitrators or umpire have made their award, they shall sign it and shall give notice to the parties of the making and signing thereof and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award.

(*2*) The arbitrators or umpire shall, at the request of any party to the submission or any person claiming under him, and upon payment of the fees and charges due in respect of the arbitration and award, and of the costs and charges of filing the award, cause the award, or a signed copy of it, to be filed in the Court ; and notice of the filing shall be given to the parties by the arbitrators or umpire.

(*3*) Where the arbitrators or umpire state a special case under section 10, clause (*b*), the Court shall deliver its opinion thereon ; and such opinion shall be added to, and shall form part of, the award.

12. The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not. Power for Court to enlarge time for making award.

13. (*1*) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire. Power to remit award.

(*2*) Where an award is remitted under sub-section (*1*), the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

14. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award. Power to set aside award.

15. (*1*) An award on a submission, on being filed in the Court in accordance with the foregoing provisions, shall (unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the Court. Award when filed to be enforceable as a decree.

(*2*) An award may be conditional or in the alternative.

Illustration.

A dispute concerning the ownership of a diamond ring is referred to arbitration. The award may direct that the party in possession shall pay the other party Rs. 1,000, the said sum to be reduced to Rs. 5 if the ring is returned within fourteen days.

16. Where an arbitrator or umpire has misconducted himself, the Court may remove him. Power to remove arbitrator or umpire.

17. Any order made by the Court under this Act may be made on such terms as to costs or otherwise as the Court thinks fit. Costs.

18. The forms set forth in the Second Schedule, or forms similar thereto, with such variations as the circumstances of each case require, may be used for the respective purposes there mentioned, and, if used, shall not be called in question. Forms.

19. Where any party to a submission to which this Act applies, or any person claiming under him, commences any legal proceedings against any other party to the submission, or any person claiming under him, in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to [1][the judicial authority before which the proceedings are pending] to stay the proceedings ; and [1][such authority], if satisfied that there Power to stay proceedings where there is a submission.

[1] Subs. by the Indian Arbitration (Amendment) Act, 1933 (21 of 1933), s. 2, for "the Court".

(*The First Schedule.—Provisions to be implied in Submissions.*)

is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

Power for High Court to make rules.

20. The High Court may make rules consistent with this Act as to—

(*a*) the filing of awards and all proceedings consequent thereon or incidental thereto ;

(*b*) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto ;

(*c*) the transfer to Presidency Courts of Small Causes for execution of awards filed, where the sum awarded does not exceed two thousand rupees ;

(*d*) the staying of any suit or proceeding in contravention of a submission to arbitration ; and,

(*e*) generally, all proceedings in Court under this Act.

21. [*Amendment of section 21, Act I, 1877.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

Crown to be bound.

22. The provisions of this Act shall be binding on the Crown.

23. [*Special provision as to application of Act to Rangoon.*] *Rep. by the A. O.*

THE FIRST SCHEDULE.

(*See section 6.*)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

I. If no other mode of reference is provided, the reference shall be to a single arbitrator.

II. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

III. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may, from time to time, enlarge the time for making the award.

IV. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

V. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.

(The First Schedule.—Provisions to be implied in Submissions. The Second Schedule.—Forms.)

VI. The parties to the reference, and all persons claiming through them respectively, shall, subject to the provisions of any law for the time being in force, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

VII. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath.

VIII. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

IX. The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom, and in what manner, those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

THE SECOND SCHEDULE.

(See section 18.)

FORM I.

Submission to single arbitrator.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas differences have arisen and are still subsisting between A. B. of and C. D. of concerning ;

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the , *189* .

FORM II.

Submission of particular dispute to single arbitrator.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas differences have arisen and are still subsisting between A. B. of and C. D. of concerning ;

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the , *189* .

FORM III.

Appointment of single arbitrator under agreement to refer future differences to arbitration.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas, by an agreement in writing, dated the day of , 18 , and made between A. B. of and C. D. of , it is provided that differences arising between the parties thereto shall be referred to an arbitrator as therein mentioned ;

(*The Second Schedule.—Forms.*)

And whereas differences within the meaning of the said provision have arisen and are still subsisting between the said parties concerning ;

Now we, the said parties, A. B. and C. D., do hereby refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the , *189* .

FORM IV.

Enlargement of time by arbitrator by endorsement on submission.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

I hereby enlarge the time of making my award in respect of the matters in difference referred to me by the within (*or* above) submission until the day of 189 .

(*Signed*) X. Y.,
Arbitrator.

Dated the , *189* .

FORM V.

Special case.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

The following special case is, pursuant to the provisions of section 10, clause (*b*), of the said Act, stated for the opinion of the * :—

* Here specify the Court.

(*Here state the facts concisely in numbered paragraphs.*)

The questions of law for the opinion of the said Court are :—

First, whether

Secondly, whether

(*Signed*) X. Y.,
Arbitrator.

Dated the , *189* .

FORM VI.

Award.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

Whereas in pursuance of an agreement in writing, dated the day of , 189 , and made between A. B. of and C. D. of , the said A. B. and C. D. have referred to me, X. Y., the matters in difference between them concerning

(*or as the case may be*) ;

Now I, the said X. Y., having duly considered the matters submitted to me, do hereby make my award as follows :—

I award—

(1) that

(2) that

(*Signed*) X. Y.,
Arbitrator.

Dated the , *189* .

THE GLANDERS AND FARCY ACT, 1899.

CONTENTS.

SECTIONS.

1. Short title and extent.
2. Definition of " diseased ".
3. Application of Act to local areas by Provincial Government.
4. Provincial Government to appoint Inspectors.
5. Power of entry and search.
6. Power of seizure.
7. Horse to be examined by Veterinary Practitioner.
8. Horse to be destroyed if found diseased : otherwise restored.
9. When horse diseased, place where it has been to be disinfected, etc.
10. Owner or person in charge of diseased horse to give notice.
11. Prohibition against removal, without license, of horse which has been with diseased horse.
12. Vaxatious entries, searches and seizures.
13. Penalty for refusing to comply with notice under section 9, or for removing horse contrary to section 11.
14. Power to make rules.
15. Appointment of same person to be both Inspector and Veterinary Practitioner.
16. Protection to persons acting under Act.
17. [*Repealed.*]

THE SCHEDULE.—[*Repealed.*]

ACT No. XIII OF 1899.[1]

[*20th March, 1899.*]

An Act to consolidate and amend the law relating to Glanders and Farcy.

WHEREAS it is expedient to consolidate and amend the law relating to glanders and farcy ; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Glanders and Farcy Act, 1899. **Short title and extent.**

(*2*) It extends to the whole of British India [2]* * *.

1 For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 353 ; for Report of the Select Committee, *see ibid.*, p. 51 ; for Proceedings in Council, *see ibid.*, 1898, Pt. VI, p. 394 ; *ibid.*, 1899, Pt. VI, pp. 25, 86 and 119.

This Act has been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872) ; in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3 and Sch. I ; in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

2 The word " and " and sub-section (*3*) rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

Definition of "diseased".

2. (*1*) In this Act, unless there is anything repugnant in the subject or context, "diseased" means affected with glanders or farcy or any other dangerous epidemic disease among horses which the [1][Provincial Government] may, by [2]notification in the [3][Official Gazette], specify in this behalf [4]* * *.

(*2*) The provisions of this Act relating to horses shall apply also to [5][camels], asses and mules.

Application of Act to local areas by Provincial Government.

[6][3. (*1*) The [7][Provincial Government] may, by notification[8] in the [9][Official Gazette], apply this Act or any provision of this Act to any local area, to be specified in such notification, within the Province.

(*2*) In any such notification the [7][Provincial Government] may further direct that the Act or any provision so applied shall apply in respect of—

(*a*) all or any of the diseases mentioned or specified in a notification under section 2, sub-section (*1*),

(*b*) all animals or any class of animals mentioned in section 2, sub-section (*2*).]

Provincial Government to appoint Inspectors.

4. (*1*) When this Act has been so applied to a local area, the [7][Provincial Government] may, by notification in the [9][Official Gazette], appoint[10] such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of the local area or such portions thereof as it may prescribe, the powers conferred and the duties imposed by this Act on such officers.

(*2*) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Power of entry and search.

5. Within the local limits for which he is so appointed, any such Inspector as aforesaid may, subject to such rules as the [7][Provincial Government] may make in this behalf, enter and search any field, building or other place for the purpose of ascertaining whether there is therein any horse which is diseased.

---

1 Subs. by the A. O. for the words "L. G." which were subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for the words "G. G. in C.".

2 For notifications under this sub-section as amended by Act 11 of 1901, as regards the Naini Tal, Dehra Dun and Saharanpur Districts, *see* Gazette of India, 1902, Pt. I, p. 30; as regards Bombay City and Poona Cantonment, *see ibid.*, 1904, Pt. I, p. 948; and as regards certain other local areas, *see ibid*, 1906, Pt. I, p. 205. *See* also different local Rules and Orders.

3 Subs. by the A. O. for the words "local official Gazette" which were subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for "Gazette of India".

4 Certain words rep. by the Repealing Act, 1927 (12 of 1927).

5 Ins. by the Glanders and Farcy (Amendment) Act, 1920 (9 of 1920), s. 2.

6 Subs. by s. 3, *ibid.*, for the original section.

7 Subs. by the A. O. for "L. G.".

8 For such notifications, *see* different local Rules and Orders.

9 Subs. by the A. O. for "local official Gazette".

10 For instances of notifications under this section, *see* different local Rules and Orders.

6. Within such limits as aforesaid, the Inspector may seize any horse which he has reason to believe to be diseased. Power of seizure.

7. (*1*) On any such seizure as aforesaid, the Inspector shall cause the horse seized to be examined as soon as possible by such Veterinary Practitioner as the [1][Provincial Government] may [2]appoint in this behalf : Horse to be examined by Veterinary Practitioner.

Provided that, when the Inspector is also a Veterinary Practitioner so appointed, he may make the examination himself.

(*2*) For the purposes of the examination, the Veterinary Practitioner may submit the horse to any test or tests which the [1][Provincial Government] may prescribe.

8. (*1*) If the Veterinary Practitioner certifies in writing that the horse is diseased, the Inspector shall cause the same to be immediately destroyed : Horse to be destroyed if found diseased otherwise restored.

Provided that, in the case of any disease other than glanders or farcy, horses certified to be diseased as aforesaid may, subject to any rules[3] which the [1][Provincial Government] may make in this behalf, be either destroyed or otherwise treated or dealt with as the Veterinary Practitioner may deem necessary.

(*2*) If, after completing the examination, the Veterinary Practitioner does not certify that the horse is diseased, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

9. (*1*) When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of the building, shed, place or lines, or to the person in charge thereof, directing him to have the same disinfected and the internal fittings thereof, or such other things found therein or near thereto as the [1][Provincial Government] may by rule prescribe, destroyed. When horse diseased, place where it has been to be disinfected, etc.

(*2*) On the failure or neglect of such owner or other person as aforesaid to comply with the notice within a reasonable time, the Inspector shall cause the building, shed, place or lines to be disinfected and the fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from the owner or other person as if it were a fine.

10. The owner or any person in charge of a diseased horse shall give immediate information of the horse being diseased to the Inspector or to such authority as the [1][Provincial Government] may appoint[4] in this behalf. Owner or person in charge of diseased horse to give notice.

---

1 Subs. by the A. O. for "L. G.".

2 For notifications appointing Veterinary Practitioners, *see* different local Rules and Orders.

3 For such rules, *see* different local Rules and Orders.

4 For officers so appointed, *see* different local Rules and Orders.

Prohibition against removal, without license, of horse which has been with diseased horse.

11. No person in charge of any horse which has been in the same field, building or place as, or in contact with, a diseased horse, shall remove such horse except in good faith for the purpose of preventing infection, or under a license to be granted by the Inspector and subject to the conditions of the license.

Vexatious entries, searches and seizures.

12. (*1*) Whoever, being an Inspector appointed under this Act, vexatiously and unnecessarily enters or searches any field, building or other place, or seizes or detains any horse on the pretence that it is diseased, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Penalty for refusing to comply with notice under section 9, or for removing horse contrary to section 11.

13. Whoever refuses or neglects to comply with any notice issued by the Inspector under section 9, or removes any horse in contravention of section 11, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Power to make rules.

14. (*1*) The [1][Provincial Government] may make [2]rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules as aforesaid may—

(*a*) regulate entries, searches and seizures by Inspectors under this Act ;

(*b*) regulate the use of tests and the isolation of horses subjected thereto, and provide for recovering the expense of detaining, isolating and testing horses from the owners or persons in charge thereof as if it were a fine ;

(*c*) regulate the destruction or treatment, as the case may be, of horses certified under section 8 to be diseased, and the disposal of the carcases of diseased horses ;

(*d*) regulate the disinfecting of buildings and places in which diseased horses have been, and prescribe what things found therein or near thereto shall be destroyed ; and

(*e*) regulate the grant of licenses under section 11 and the conditions on which those licenses shall be granted.

(*3*) All rules under this section shall be published in the [3][Official Gazette], and, on such publication, shall have effect as if enacted by this Act.

---

1 Subs. by the A. O. for "L. G.".
2 For such rules, *see* different local Rules and Orders.
3 Subs. by the A. O. for "local official Gazette".

(*4*) In making any rule under this section, the [1][Provincial Government] may direct that a breach of it shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

15. Any Veterinary Practitioner may be appointed by the [1][Provincial Government] to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder.

Appointment of same person to be both Inspector and Veterinary Practitioner.

16. No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done under this Act.

Protection to persons acting under Act.

17. [*Repeal.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

THE SCHEDULE.—[*Enactments repealed.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

THE CHURCH OF SCOTLAND KIRK SESSIONS ACT, 1899.

ACT No. XXIII OF 1899.[2]

[*27th September, 1899.*]

An Act to provide for the Incorporation of Kirk Sessions of the Church of Scotland in ~~British India~~.

WHEREAS there are in ~~British India~~ Kirk Sessions of the Church of Scotland which have been duly constituted to be Church Courts for ecclesiastical purposes in pursuance of Acts of the General Assembly of the Church of Scotland ;

And whereas it is expedient that such Kirk Sessions and any others which may hereafter be so constituted, should be incorporated with the powers hereinafter provided ;

It is hereby enacted as follows :—

1. (*1*) This Act may be called the Church of Scotland Kirk Sessions Act, 1899 ;

Short title and extent.

(*2*) It extends to ~~the whole of British India~~ [3]* * * .

2. (*1*) Every Kirk Session which has been, or may hereafter be, duly constituted to be a Church Court for ecclesiastical purposes in pursuance of an Act of the General Assembly of the Church of Scotland,

Scotch Kirk Sessions to be bodies corporate.

---

1 Subs. by the A. O. for "L. G.".

2 For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 79 ; for Proceedings in Council, *see ibid.*, Pt. VI, pp. 181, 212 and 213.

3 The word "and" and sub-section (*3*) rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

is hereby declared to be, and the same shall be, a body corporate having perpetual succession and a common seal.

(*2*) A notification by the [1][Central Government] in the [2][Official Gazette] that a Kirk Session has been duly constituted[3] in pursuance of an Act of the General Assembly of the Church of Scotland shall be conclusive proof that it has been so constituted.

Power to hold and dispose of property.

3. (*1*) Every Kirk Session constituted as aforesaid shall, as a body corporate, have power to acquire and hold any property which has been, or may hereafter be, vested in it for the purposes of the Congregation for which it has been, or may hereafter be, constituted, or of any trust which may have been, or may hereafter be, accepted by it, to transfer the same, to contract and to do all other things necessary for, or incidental to, the purposes of its constitution or of any such trust as aforesaid.

(*2*) The signature of the Moderator and Treasurer or Session-clerk for the time being of a Kirk Session constituted as aforesaid shall, if affixed on behalf and by order of the Kirk Session, be sufficient for all purposes for which the signature of the Kirk Session is required.

THE CENTRAL PROVINCES COURT OF WARDS ACT, 1899.

CONTENTS.

Sections.

1. Short title, extent and commencement.
2. Definitions.
3. Commissioner to be Court of Wards
4. Superintendence by Court of Wards of property of disqualified land-holder.
5. Land-holders to be deemed disqualified in certain cases
6. Superintendence by Court of Wards on application of proprietor.
7. Temporary provisions for custody of heirs and protection of property in certain cases.
8. Superintendence by Court of Wards of person of disqualified land-holder.
9. Superintendence by Court of Wards where disqualified land-holder owns land in more than one division.

---

1 Subs. by the A. O. for "G. G. in C.".

2 Subs. by the A. O. for "Gazette of India".

3 For notification declaring the Kirk Sessions at Calcutta, Madras, Bombay and Allahabad to be duly constituted, *see* Gazette of India, 1900, Pt. I, p. 484 ; for similar notifications in respect of the Kirk Session at Simla and the Kirk Session at Poona, *see ibid.*, 1904, Pt. I, p. 831, and *ibid.*, 1905, Pt. I, p. 706, respectively ; at Rawalpindi and Karachi, *see ibid.*, 1917, Pt. I, p. 1097, and *ibid.*, 1921, Pt. I, p. 856, respectively.

Sections.

10. Assumption of superintendence to be notified and to extend to whole of Government ward's property.
11. Barring of suits to contest authority to assume superintendence.
12. Notices to claimants against Government ward.
13. Claimants to furnish full particulars and documents.
14. Stay of proceedings of Civil Courts.
14A. Exemption of certain moneys from process of execution.
15. Adjudication of claims.
16. Report to Provincial Government.
17. Appointment, etc., of managers by Court of Wards.
18. Delegation of powers by Court of Wards.
19. Liabilities, etc., of managers and other servants of Court of Wards.
20. Power for Court of Wards to appoint guardians of certain Government wards.
21. General powers of Court of Wards.
22. Custody, education and residence of certain Government wards.
23. Allowance for Government ward and his family.
24. Duties of Court of Wards or manager.
25. Powers of Court of Wards as to property of Government wards.
26. Notice of suit.
27. Manager or Court of Wards to be next friend or guardian in suit by or against Government wards.
28. Payment of costs.
29. Processes against Government ward to be served on next friend or guardian.
30. Authority of Court of Wards required in case of suits brought on behalf of Government wards.
31. Disabilities of a Government ward.
32. Consent of Provincial Government necessary to adoptions or wills made by Government wards.
33. Procedure when succession to Government ward's property is disputed.
34. Withdrawal of superintendence of Court of Wards.
35. Appointment of guardian in certain cases.
36. Withdrawal to be notified in Gazette.
37. Appeals.
38. Control of Provincial Government.
39. Exercise of discretion not to be questioned in Civil Court.
40. Power for Provincial Government to make rules
41. [*Repealed.*]

THE SCHEDULE.—[*Repealed.*]

ACT No. XXIV OF 1899[1].

[*13th October, 1899.*]

An Act to consolidate and amend the law relating to the Court of Wards in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the Central Provinces ; It is hereby enacted as follows :—

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Central Provinces Court of Wards Act, 1899.

(*2*) It extends to [2]* * * the Central Provinces ; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression " Government ward " means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act :

(*b*) " land " includes the rights of a land-holder in respect of the land of which he is the malguzar or zamindar or the muafidar, jagirdar, ubaridar or other assignee of land-revenue, or in which he is interested : and

(*c*) " land-holder " means a malguzar as defined in the [3]Central Provinces Land-revenue Act, 1881, and the zamindar of any zamindari in a Scheduled District, and includes a muafidar, jagirdar, ubaridar or other assignee of land-revenue, and any person not hereinbefore specified who is interested in land and belongs to a class of which the [4][Provincial Government] [5]* * * * * has declared the members to be land-holders for the purposes of this Act. XVIII of 1881.

Commissioner to be Court of Wards.

3. Subject to the provisions of section 9, the Commissioner shall be the Court of Wards for the limits of his division.

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 108 ; for Report of the Select Committee, *see ibid.*, p. 121 ; and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 192 and 225.

2 The words " the territories for the time being administered by the L. G. of " rep. by the A. O.

3 Act 18 of 1881 has been rep. and re-enacted by the Central Provinces Land Revenue Act, 1917 (C. P. 2 of 1917), but the definition of " malguzar " is not reproduced in the latter Act.

4 Subs. by the A. O. for " L. G.".

5 The words " with the previous sanction of the G. G. in C.", rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

Superintendence by Court of Wards of property of disqualified land-holder.

4. The Court of Wards may, with the previous sanction of the [1][Provincial Government], assume the superintendence of the property of any land-holder owning land within the local limits of its jurisdiction who is disqualified to manage his property.

Land-holders to be deemed disqualified in certain cases.

[2][5. (*1*) The following persons shall, for the purposes of section 4, be deemed to be disqualified to manage their own property, namely :—

(*a*) minors ;

(*b*) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs ;

(*c*) persons not being zamindars of zamindaris in a Scheduled District, declared by the District Judge on the application of the Deputy Commissioner of the district in which any part of the property of such persons is situated and after such judicial enquiry as he thinks necessary, to be incapable of managing or unfitted to manage their own property owing to their having entered upon a course of wasteful extravagance likely to dissipate their property ;

(*d*) persons declared by the [1][Provincial Government] to be incapable of managing their property owing to—

(i) any physical or mental defect or infirmity ;

(ii) their having been convicted of a non-bailable offence and being unfitted by vice or bad character ;

(iii) their being females ; and

(*e*) zamindars of zamindaris in a Scheduled District declared by the [1][Provincial Government] to be incapable of managing or unfitted to manage their own property owing to—

(i) their having entered upon a course of wasteful extravagance ; or

(ii) their failure without sufficient reason to discharge the debts and liabilities due by them :

Provided that no such declaration shall be made unless the [1][Provincial Government] is satisfied—

(*a*) that the aggregate annual interest payable at the contractual rate on the debts and liabilities due by the zamindar exceeds one-third of the average annual profits of the preceding five years ; and

(*b*) that such extravagance or such failure to discharge the said debts and liabilities is likely to lead to the dissipation of property.

---

1 Subs. by the A. O. for "L. G.".

2 Subs. by the Central Provinces Court of Wards (Amendment) Act, 1929 (C. P. 5 of 1929), s. 2, for the original section.

(*2*) No declaration under clause (*e*) of sub-section (*1*) shall be made until the zamindar has been furnished with a detailed statement of the grounds on which it is proposed to disqualify him and has had an opportunity of showing cause why such declaration should not be made.

(*3*) No appeal shall lie against any declaration made by the District Judge under clause (*c*) of sub-section (*1*).

(*4*) No suit shall be brought in any Civil Court in respect of any declaration made by the [1][Provincial Government] under clause (*d*) or clause (*e*) of sub-section (*1*).]

Superintendence by Court of Wards on application of proprietor.

6. (*1*) Any land-holder may apply to the [1][Provincial Government] to have his property placed under the superintendence of the Court of Wards, and the [1][Provincial Government] may on such application, if it thinks it expedient in the public interests, order the Court of Wards to assume the superintendence of the property.

(*2*) An order made by the [1][Provincial Government] under sub-section (*1*) shall be sufficient to authorize the Court of Wards to assume the superintendence of the property referred to therein, and no suit shall be brought in any Civil Court in respect of any such order.

Temporary provisions for custody of heirs and protection of property in certain cases.

7. (*1*) Whenever the Court of Wards receives information that any land-holder has died and has reason to believe that the heir of the land-holder is a person who is, or should be adjudged or declared to be, disqualified under section 5, the Court may—

(*a*) take such steps and make such order for the temporary custody and protection of the property inherited as it thinks fit ; and,

(*b*) if the heir is a minor, direct that the person (if any) having the custody of the minor, shall produce him or cause him to be produced at such place and time and before such person as the Court may appoint, and make such order for the temporary custody and protection of the minor as it thinks fit :

Provided that, where the minor is a female and belongs to a class the females of which do not usually appear in public, her production shall be required only in accordance with the manners and customs of the country.

(*2*) Whenever the Court of Wards proceeds under this section, it shall forthwith report its action for the information of the [1][Provincial Government].

Superintendence by Court of Wards of person of disqualified land-holder.

8. Where the Court of Wards assumes the superintendence of the property of a minor or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the [1][Provincial Government], assume the superintendence of his person also :

---

[1] Subs. by the A. O. for "L. G.".

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

Superintendence by Court of Wards where disqualified land-holder owns land in more than one division.

9. Where a land-holder owns land within two or more divisions, such one only of the Courts of Wards as the [1][Provincial Government] may determine in this behalf shall assume the superintendence of the property, or of the person and property, of the land-holder.

Assumption of superintendence to be notified and to extend to whole of Government ward's property.

10. (*1*) Whenever the Court of Wards assumes the superintendence of the property of any person under this Act, the fact of such assumption, and the date on which it was sanctioned by the [1][Provincial Government], shall be notified in the [2][Official Gazette].

(*2*) On and with effect from the date of such sanction, the whole of the property, moveable and immoveable, of such person, whether the existence of any such property may be known to the said Court or not, shall be deemed to be under the superintendence of the Court of Wards.

(*3*) Any property which the Government ward may inherit subsequently to the date of such sanction, shall also be deemed to be under the superintendence of the Court of Wards.

(*4*) The Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which the ward may acquire, otherwise than by inheritance, subsequently to the date of such notification.

Barring of suits to contest authority to assume superintendence.

11. No suit shall be brought in any Civil Court to contest the authority of the Court of Wards in respect of the property, or of the person and property, of any person under this Act on the ground that such person was not, or is not, a land-holder or a minor.

Notices to claimants against Government ward.

12. (*1*) On the issue of a notification under section 10, the Court of Wards shall publish in the [2][Official Gazette] and in such other manner as the [1][Provincial Government] may, by general or special order, direct, a notice, in English and also in the vernacular, calling upon all persons having claims against the Government ward or his immoveable property to submit the same in writing to it within six months from the date of the publication of the notice aforesaid.

(*2*) Every such claim (other than a claim on the part of the Government) not submitted to the Court of Wards in compliance with the provisions of sub-section (*1*), shall, save in the case provided for by section 16, sub-section (*2*), clause (*c*), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged :

---

1 Subs. by the A. O. for "L. G.".

2 Subs. by the A. O. for "local official Gazette".

Provided that, if the Court of Wards is satisfied that the claimant was unable to comply with the provisions of sub-section (*1*), it may receive his claim at any time after the date of the expiry of the period aforesaid, but any claim so received shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid.

Claimants to furnish full particulars and documents.

13. (*1*) Every claimant submitting his claim in compliance with the provisions of section 12, sub-section (*1*), shall furnish, along with his written statement of claim, full particulars thereof, and shall, at the same time, produce all documents (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document.

(*2*) The Court of Wards shall, after marking, for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the claimant.

(*3*) If any document, which is in the possession or under the control of the claimant, is not produced by him as required by sub-section (*1*), the document shall not be admissible in evidence against the Government ward, whether during the continuance of the management or afterwards, in any suit brought by the claimant or by any person claiming under him.

Stay of proceedings of Civil Courts.

14. If a Civil Court has directed any process of execution to issue against any immoveable property of a Government ward or the rents thereof or any crops standing thereon, the Court of Wards may, at any time within one year after the issue of a notification under section 10, apply to the Civil Court to stay proceedings in the matter of such process, and the Civil Court may, on such terms regarding interest or compensation for delay as may appear to it to be just and reasonable, stay such proceedings accordingly.

Exemption of certain moneys from process of execution.

[1][**14A.** (*1*) Notwithstanding anything contained in any enactment for the time being in force, such sum of money in the custody of the Court of Wards on account of any property under its superintendence as may be necessary to meet the items of expenditure hereinafter mentioned shall not be liable to any process of execution :—

(*a*) allowances determined under section 23 for any Government ward, his family and dependants for a period of three months ;

(*b*) rates for a period of three months levied on such property under section 3, and any special charges against such property under section 4, of the Government Management of Private Estates Act, 1892 ; X of 1892.

---

[1] S. 14A was ins. by the Central Provinces Court of Wards (Amendment) Act, 1934 (C. P. 12 of 1934), s. 2.

(*c*) cost for a period of three months of any establishment other than a Government establishment, specially employed in the management of such property, including contingent charges in connection with such employment ; and

(*d*) expenses required until the next harvest for the cultivation of land belonging to any Government Ward and directly cultivated by him or the Court of Wards.

(*2*) A certificate of the Court of Wards in respect of the amount required for the purpose of item (*c*) shall be final. The amount required for the purpose of item (*d*) shall be such as may, in the opinion of the Civil Court, be necessary.]

Adjudication of claims.

15. (*1*) On receipt of all claims submitted in compliance with the provisions of sections 12 and 13, the Court of Wards shall proceed to investigate such claims and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(*2*) When the Court of Wards has admitted any claim under sub-section (*1*), it may make to the claimant a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both : and, if such proposal, or any modification of it, is accepted by the claimant and his acceptance is finally recorded and attested by the Court of Wards or by any Revenue-officer not being below the rank of an Assistant Commissioner whom the [1][Provincial Government] may, by general or special order, appoint in this behalf, it shall be conclusively binding upon the claimant :

Provided that, if when the superintendence of the property by the Court of Wards is relinquished or otherwise terminates, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (*1*) as the unsatisfied portion bears to the reduced claim.

(*3*) Subject to the provisions of sub-section (*2*), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a Government ward or his property which has been submitted to and received by the Court of Wards :

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

Report to Provincial Government.

16. (*1*) When all claims have been investigated under section 15, the Court of Wards shall submit to the [1][Provincial Government] a schedule of the debts and liabilities of the Government ward, and the [1][Provincial Government] may, when the estate appears to be involved beyond all hope of extrication or for any other sufficient reason, by an order published in the

[1] Subs. by the A. O. for "L. G.".

[1][Official Gazette], direct that, on a date to be fixed by the order, the superintendence of the property and person of the ward shall be relinquished by the Court of Wards.

(*2*) On the date so fixed—

(*a*) the superintendence shall terminate ;

(*b*) the owner of the property under superintendence shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property ;

(*c*) the claims referred to in section 12, sub-section (*2*), shall revive.

(*3*) In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which such superintendence has continued shall be excluded.

Appointment, etc., of managers by Court of Wards.

17. The Court of Wards may appoint a manager of the property of any Government ward under its superintendence.

Delegation of powers by Court of Wards.

18. (*1*) With the general or special sanction of the [2][Provincial Government], the Court of Wards may, from time to time, delegate all or any of its powers to the Deputy Commissioner of any district in which any part of the property of a Government ward is situated, or to any other person whom it may appoint in this behalf, and may, at any time, with the like sanction, revoke such delegation.

(*2*) Subject to any general or special orders of the [2][Provincial Government], the Court of Wards may exercise all or any powers conferred on it by this Act through the Deputy Commissioner of any district in which any part of the property of a Government ward is situated, or through any other person whom it may appoint in this behalf, and, subject to the like orders, any such Deputy Commissioner may exercise all or any powers delegated to him under this Act through any Revenue-officer subordinate to him.

Liabilities, etc., of managers and other servants of Court of Wards.

19. (*1*) Every manager appointed by the Court of Wards shall—

(*a*) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management ;

(*b*) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties ; and

(*c*) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(*2*) Every manager or other servant of the Court of Wards shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code ; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" XLV of 1860.

1 Subs. by the A. O. for "local official Gazette".

2 Subs. by the A. O. for "L. G.".

shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

20. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence.

Power for Court of Wards to appoint guardians of certain Government wards.

21. Subject to the provisions of this Act and of any rules thereunder, the Court of Wards—

General powers of Court of Wards.

(*a*) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if it were not under the superintendence of the Court of Wards, might do for its care and management ; and

(*b*) may, of itself or through the guardian (if any) appointed by it under this Act, do, in respect of the person of any Government ward whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

22. The Court of Wards may pass such orders as it thinks fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

Custody, education and residence of certain Government wards.

23. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependants.

Allowance for Government ward and his family.

24. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Duties of Court of Wards or manager.

25. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the [1][Provincial Government], mortgage, sell or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

Powers of Court of Wards as to property of Government wards.

26. No suit relating to the person or property of any Government ward shall be brought in any Civil Court until the expiration of two months after

Notice of suit.

[1] Subs. by the A. O. for "L. G.".

notice in writing, stating the name and place of abode of the intending plaintiff, the cause of action and the relief claimed, has been delivered to, or left at the office of, the Court of Wards ; and the plaint shall contain a statement that such notice has been so delivered or left :

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of a notification issued under section 10, sub-section (*1*).

Manager or Court of Wards to be next friend or guardian in suit by or against Government wards.

27 In every suit brought by or against a Government ward, the manager of the ward's property or, if there is no manager, the Court of Wards having the superintendence of the ward's property shall be named as the next friend or guardian for the suit, as the case may be.

Payment of costs.

28. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the Government ward's next friend or guardian for the suit, the Court of Wards shall cause the cost to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Processes against Government ward to be served on next friend or guardian.

29. Every process which may be issued out of any Civil or Revenue Court against any Government ward shall be served on the Government ward's next friend or guardian for the suit.

Authority of Court of Wards required in case of suits brought on behalf of Government wards.

30. No suit shall be brought, and no appeal in any suit shall be preferred, on behalf of any Government ward unless it is authorized by an order in writing of the Court of Wards :

Provided as follows :—

(*1*) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards ;

(*2*) a suit for arrears of rent may be brought on behalf of a Government ward, if authorized by an order of the manager of the property on which the rent is due.

Disabilities of a Government ward.

31. (*1*) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof (except such interest as may be created by a will made in accordance with section 32), or to enter into any contract which may involve him in pecuniary liability [1][nor shall his property be liable under section 68 of the Indian Contract Act, 1872] ; and no suit shall be brought in any Civil Court whereby to charge any person upon any promise made after he has ceased to be a Government ward to pay any debt contracted [1][or discharge any liability arising

IX of 1872.

[1] Ins. by the Central Provinces Court of Wards (Amendment) Act, 1915 (C. P. 1 of 1915).

IX of 1872. under section 68 of the Indian Contract Act, 1872,] during the period when he was a Government ward, or upon any ratification made after he has ceased to be a Government ward of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification.

[1][Nothing in this section shall preclude the Court of Wards from satisfying, in whole or in part as it may deem fit, any claim under section 68 of the Indian Contract Act, 1872.]

IX of 1872.

(*2*) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage :

Provided that a Government ward shall not incur, in connection with such a contract, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

Consent of Provincial Government necessary to adoptions or wills made by Government wards.

32. No adoption by a Government ward, and no written or verbal permission to adopt given by a Government ward, or will made by a Government ward, shall be valid without the consent of the [2][Provincial Government] obtained, either previously or subsequently to the adoption or to the giving of the permission, or the making of the will, on application made to it through the Court of Wards.

Procedure when succession to Government ward's property is disputed.

33. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may, with the previous sanction of the [2][Provincial Government], either direct that the property or the part thereof be made over to any person claiming the property, or retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court, or institute a suit of inter-pleader against all the claimants.

Withdrawal of superintendence of Court of Wards.

34. (*1*) The Court of Wards may, with the sanction of the [2][Provincial Government], at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as,—

(*a*) in the case of a person disqualified under clause (*a*) of section 5, sub-section (*1*), he attains his majority ;

(*b*) in the case of a person disqualified under clause (*b*) of the same, he ceases to be of unsound mind and incapable of managing his affairs ;

(*c*) in the case of a person disqualified under sub-clause (*i*) of [3][clause (*d*)] of the same, his physical or mental defect or infirmity is removed or ceases :

Provided as follows :—

(*i*) whenever a Government ward dies or ceases to be disqualified and his property is still encumbered with debts and liabilities,

1 Ins. by the C. P. Court of Wards (Amendment) Act, 1915 (C. P. 1 of 1915).
2 Subs. by the A. O. for "L. G.".
3 Subs. by the C. P. Court of Wards (Amendment) Act, 1936 (C. P. 3 of 1936), s. 2, for "clause (*c*)".

the Court of Wards may, with the previous sanction of the [1][Provincial Government], either release such property or retain it under its superintendence until such debts and liabilities have been discharged ; and,

(*ii*) if one or more of the proprietors of a property remain disqualified, although another or others may have ceased to be disqualified, the Court of Wards may, with the previous sanction of the [1][Provincial Government], retain the whole of the property under its superintendence, paying any proprietor who has ceased to be disqualified, the surplus income accruing from his share of the estate.

(*2*) Where any question arises as to whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (*a*), or from any property under clause (*c*), of sub-section (*1*), the decision of the [1][Provincial Government] thereon shall be final, and no suit shall be brought in any Civil Court in respect of such decision.

Appointment of guardian in certain cases.

35. (*1*) Where, in exercise of the power conferred by section 34, the Court of Wards decides to withdraw its superintendence from the person and property of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the person or property, or both, of the minor, and such appointment shall take effect from the date of such release.

(*2*) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the Guardians and Wards Act, 1890 ; and every guardian so appointed shall have, and be subject to, the same rights, duties and liabilities as if he had been appointed under that Act. VIII of 1890.

Withdrawal to be notified in Gazette.

36. Where the Court of Wards withdraws its superintendence from any person or property under this Act, the fact of such withdrawal shall be notified in the [2][Official Gazette].

Appeals.

37. An appeal shall lie from every order passed under this Act, whether original or on appeal,—

(*a*) if the order is that of a Commissioner, to the [1][Provincial Government] ;

(*b*) if the order is that of a Deputy Commissioner, to the Commissioner ;

(*c*) in all other cases, to the Deputy Commissioner :

Provided that in no case shall a third appeal lie.

Control of Provincial Government.

38. All orders or proceedings under this Act shall be subject to the supervision and control of the [1][Provincial Government] ; and the

[1] Subs. by the A. O. for "L. G.".
[2] Subs. by the A. O. for "local official Gazette".

[1][Provincial Government] may, if it thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

39. No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

Exercise of discretion not to be questioned in Civil Court.

40. (*1*) The [1][Provincial Government] may make rules to carry out the purposes and objects of this Act.

Power for Provincial Government to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration ;

(*b*) regulate the amount of security to be given by managers ;

(*c*) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the [1][Provincial Government] ;

(*d*) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered to the Court of Wards and by the Court of Wards to the [1][Provincial Government] ;

(*e*) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward ;

(*f*) regulate the procedure in inquiries by, and in appeals from orders of, the Court of Wards under this Act, and fix the periods of limitation which shall apply to such appeals ;

(*g*) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits ;

(*h*) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned ; and

(*i*) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(*3*) All rules made under this section shall be published in the [2][Official Gazette], and shall on such publication have effect as if enacted by this Act.

41. [*Repeal.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE SCHEDULE.—Rep by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

---

1 Subs. by the A. O. for "L. G.".
2 Subs. by the A. O. for "local official Gazette".

THE PRISONERS ACT, 1900.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
2. Definitions.

PART II.

GENERAL.

3. Officers in charge of prisons to detain persons duly committed to their custody.
4. Officers in charge of prisons to return writs, etc., after execution or discharge.

PART III.

PRISONERS IN THE PRESIDENCY-TOWNS.

5 Warrants, etc , to be directed to Police-officers.
6. Power for Provincial Governments to appoint Superintendents of Presidency prisons
7. Delivery of persons sentenced to imprisonment or death by High Court.
8. Delivery of persons sentenced to transportation or penal servitude by High Court.
9. Delivery of persons committed by High Court in execution of a decree or for contempt.
10. Delivery of persons sentenced by Presidency Magistrates.
11. Delivery of persons committed for trial by High Court.
12. Custody pending hearing by High Court under section 350 of the Code of Civil Procedure of application for insolvency.
13. Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency-town.

PART IV.

PRISONERS OUTSIDE THE PRESIDENCY-TOWNS.

14. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.
15. Power for officers in charge of prisons to give effect to sentences of certain Courts.

SECTIONS.

16. Warrant of officer of such Court to be sufficient authority.

17. Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this Part.

18. Execution in ~~British India~~ the Province of certain capital sentences not ordinarily executable there.

PART V.

PERSONS UNDER SENTENCE OF PENAL SERVITUDE.

19. Persons under sentence of penal servitude how to be dealt with.

20. Enactments respecting persons under sentence of transportation or imprisonment with hard labour applied to persons under sentence of penal servitude.

21. Power to grant license to person sentenced to penal servitude.

22. Licensee to be allowed to go at large.

23. Apprehension of convict where license revoked.

24. Execution of warrant.

25. Licensee when arrested to be brought up for recommitment.

26. Recommitment.

27. Penalty for breach of condition of the license.

PART VI.

REMOVAL OF PRISONERS.

28. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

29. Removal of prisoners.

30. Lunatic prisoners how to be dealt with.

31. [*Repealed.*]

PART VII.

PERSONS UNDER SENTENCE OF TRANSPORTATION.

32. Appointment of places for confinement of persons under sentence of transportation and removal thereto.

PART VIII.

DISCHARGE OF PRISONERS.

33. Release, on recognizance, by order of High Court, of prisoner recommended for pardon.

PART IX.

PROVISIONS FOR REQUIRING THE ATTENDANCE OF PRISONERS AND OBTAINING THEIR EVIDENCE.

Attendance of Prisoners in Court.

SECTIONS.

34. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.
35. Power for Civil Courts to require appearance of prisoner to give evidence.
36. District Judge in certain cases to countersign orders made under section 35.
37. Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge.
38. Order to be transmitted through Magistrate of the district or sub-division in which person is confined.
39. Procedure where removal is desired of person confined in Presidency-town or more than one hundred miles from place where evidence is required.
40. Persons confined beyond limits of appellate jurisdiction of High Court.
41. Prisoner to be brought up.
42. Power to Government to exempt certain prisoners from operation of this Part.
43. Officer in charge of prison when to abstain from carrying out order.

Commissions for Examination of Prisoners.

44. Commissions for examination of prisoners.
45. Commissions for examination of prisoners beyond limits of appellate jurisdiction of High Court.
46. Commission how to be directed.

Service of Process on Prisoners.

47. Process how served on prisoners.
48. Process served to be transmitted at prisoner's request.

Miscellaneous.

49. Application of Part in certain cases.
50. Deposit of costs.
51. Power to make rules under this Part.
52. Power to declare who shall be deemed officer in charge of prison.
53. [*Repealed.*]

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE. [*Repealed.*]

(*Part I.—Preliminary. Part II.—General.*)

ACT No. III OF 1900.[1]

[*2nd February, 1900.*]

An Act to consolidate the law relating to Prisoners confined by order of a Court.

WHEREAS it is expedient to consolidate the law relating to prisoners confined by order of a Court ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Prisoners Act, 1900 ;

(*2*) It extends to ~~the whole of British India~~, inclusive of ~~British Baluchistan~~, the Santhal Parganas and the Pargana of Spiti. [2]* xxx- 4

[2]* * * * * * *

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Court" includes a Coroner and any officer lawfully exercising civil, criminal or revenue jurisdiction ; and

(*b*) "prison" includes any place which has been declared by the [3][Provincial Government], by general or special order, to be a subsidiary jail.

PART II.

GENERAL.

Officers in charge of prisons to detain persons duly committed to their custody.

3. The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any Court, according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged or removed in due course of law.

Officers in charge of prisons to return writs, etc., after execution or discharge.

4. The officer in charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

1 For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 101 ; for Report of the Select Committee, *see ibid*, 1900, p. 23 ; for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 102 and 242 ; *ibid*, 1900, p. 21.

This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

2 The word "and" and sub-section (*3*) rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

~~3 Subs. by the A. O.~~ for "L. G.".

(*Part III.—Prisoners in the Presidency-towns.*)

PART III.

PRISONERS IN THE PRESIDENCY-TOWNS.

Warrants, etc., to be directed to Police-officers.

5. Every writ or warrant for the arrest of any person issued by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction shall be directed to and executed by a Police-officer within the local limits of such jurisdiction.

Power for Provincial Governments to appoint Superintendents of Presidency prisons.

6. The [1][Provincial Government] may appoint officers who shall have authority to receive and detain prisoners committed to their custody under this Part.

Explanation.—Any officer so appointed, by whatever designation he may be styled, is hereinafter referred to as "the Superintendent".

Delivery of persons sentenced to imprisonment or death by High Court.

7. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the Superintendent, together with its warrant, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

Delivery of persons sentenced to transportation or penal servitude by High Court.

8. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the transportation or penal servitude of such person shall be deemed to commence from such delivery.

Delivery of persons committed by High Court in execution of a decree or for contempt.

9. Where any person is committed by the High Court, whether in execution of a decree or for contempt of Court or for any other cause, the Court shall cause him to be delivered to the Superintendent, together with its warrant of commitment.

Delivery of persons sentenced by Presidency Magistrates.

10. Where any person is sentenced by a Presidency Magistrate to imprisonment, or is committed to prison for failure to find security to keep the peace or to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with his warrant.

Delivery of persons committed for trial by High Court.

11. Every person committed by a Magistrate [2][or Justice of the Peace] for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing the Superintendent to produce such person before the Court for trial; and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a criminal session thereof, together with the warrant of commitment, in order that he may be dealt with according to law.

---

1 Subs. by the A. O. for "L. G.".

2 Subs. by the Coroners (Amendment) Act, 1908 (4 of 1908), s. 11 for "Justice of the Peace or Coroner".

(*Part III.—Prisoners in the Presidency-towns. Part IV.—Prisoners outside the Presidency-towns.*)

XIV of 1882.

12. The High Court may, pending the hearing, under section 350 of the Code of Civil Procedure,[1] of any application for a declaration of insolvency, cause the judgment-debtor concerned to be delivered to the Superintendent, subject to the provisions as to release on security of [1]section 349 of the said Code, and the Superintendent shall detain the said judgment-debtor in safe custody until he is re-delivered to an officer of the High Court for the purpose of being taken before it in pursuance of its order, or until he is released in due course of law.

Custody pending hearing by High Court under section 350 of the Code of Civil Procedure of application for insolvency.

13. (*1*) Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Civil Court established in a Presidency-town under any law or enactment for the time being in force, or in pursuance of a warrant issued under section 5, shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction.

Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency-town.

(*2*) If the said Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, such person arrested as aforesaid shall, unless a Judge of the said Court otherwise directs, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction in order that such person may be dealt with according to law ; and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

PART IV.

PRISONERS OUTSIDE THE PRESIDENCY-TOWNS.

14. In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

15. (*1*) Officers in charge of prisons outside the Presidency-towns may give effect to any sentence or order or warrant for the detention of any person passed or issued—

Power for officers in charge of prisons to give effect to sentences of certain Courts.

(*a*) by any Court or tribunal acting, whether within or without ~~British India~~, under the general or special authority of Her

[1] This reference should be construed as applying to the Provincial Insolvency Act, 1920 (5 of 1920), *see* s. 83 (*2*) of that Act.

(*Part IV.—Prisoners outside the Presidency-towns*)

Majesty, or [1][of the Central Government, or of the Crown Representative, or of any Provincial Government, or of the Government of Burma] ; or

(*b*) by any Court or tribunal in [2][any Indian State]—

(*i*) if the presiding Judge, or if the Court or tribunal consists of two or more Judges, at least one of the Judges, is an officer of the [3][Crown] authorised to sit as such Judge [4][by the State or the Ruler thereof] or by [5][the Central Government or the Crown Representative], and

(*ii*) if the reception, detention or imprisonment [6] * * * * in any province of ~~British India~~ of persons sentenced by any such Court or tribunal has been authorised by general or special order by [7] * * * * * the [8][Provincial Government] [9] * * * * * ; or

(*c*) by any other Court or tribunal [10][in any Indian State], with the previous sanction [11] * * * * * * of the [8][Provincial Government] in the case of each such sentence, order or warrant .

[12][Provided that effect shall not be given to any sentence or order or warrant for detention passed or issued by any Court or tribunal in Burma without the previous sanction of the Provincial Government concerned.]

(*2*) Where a Court or tribunal of such a [13][Ruler] or State has passed a sentence which cannot be executed without the concurrence of an officer of the [3][Crown], and such sentence has been considered on the merits and confirmed by any such officer specially authorised in that behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of [5][the Central Government or the Crown Representative].

Warrant of officer of such Court

16. A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for

1 Subs. by the A. O. for "of the G. G. in C., or of any L. G.".
2 Subs. by the A. O. for "the territories of any Native Prince or State in India".
3 Subs. by the A. O. for "British Govt.".
4 Subs. by the A. O. for "by the Native Prince or State".
5 Subs. by the A. O. for "the G. G. in C.".
6 The words "in British India or" rep. by the A. O.
7 The words "the G. G. in C. or" rep. by the A. O.
8 Subs. by the A. O. for "L. G.".
9 The words "as the case may be" rep. by the A. O.
10 Subs. by the A. O. for "in the territories of any Native Prince or State in India".
11 The words "of the G. G. in C. or" rep. by the A. O.
12 Ins. by the A. O.
13 Subs. by the A. O. for "Native Prince".

holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

to be sufficient authority.

17. (*1*) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the [1][Provincial Government], by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this Part.

(*2*) Pending a reference made under sub-section (*1*), the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

18. (*1*) Where a ~~British Court~~[2] exercising, in or with respect to territory beyond the limits of ~~British India~~, jurisdiction which [3][the ~~Crown~~] has in such territory,—

Execution ~~in British India~~ of certain capital sentences not ordinarily executable there.

(*a*) has sentenced any person to death, and,

(*b*) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and humane manner, be executed in ~~British India~~, has issued its warrant for the execution of such sentence to the officer in charge of a prison in ~~British India~~,

such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1898.

(*2*) The prisons of which the officers in charge are to execute sentences under any such warrants as aforesaid [4][shall in each Province be such as the Provincial Government] may, by general or special order, direct.

(*3*) A Court ~~shall be deemed to be a British Court for the purposes of this section~~ if the presiding Judge, or if the Court consist of two or more Judges, at least one of the Judges, is an officer of the [5][Crown] authorised to act as such Judge [6][by any Indian State or the Ruler thereof or the Central Government ~~or the Crown Representative~~] :

[1] Subs. by the A. O. for "L. G.".

[2] For notification authorising certain such British Courts to send their warrants to jails in British India which may be notified by the Crown Representative, *see* Brit. Enact., I. S., and for notification appointing certain jails in British India to which such Courts may send their warrants, for the execution of capital sentences, *see ibid* ; *see* also Ben. R. and O. ; Mad. R. and O. ; Bom. R. and O. and C. P. R. and O.

[3] Subs. by the A. O. for "the G. G. in C.".

[4] Subs. by the A. O. for "shall be such as the G. G. in C. or a L. G. authorised by the G. G. in C. in this behalf".

[5] Subs. by the A. O. for "British Govt.".

[6] Subs. by the A. O. for "by any Native Prince or State in India or by the G. G. in C.".

(Part IV.—Prisoners outside the Presidency-towns. Part V.—Persons under Sentence of Penal Servitude.)

Provided that every warrant issued under this sub-section by any such tribunal shall, if the tribunal consists of more than one Judge, be signed by a Judge who is an officer of the [1][Crown] authorised as aforesaid.

PART V.

PERSONS UNDER SENTENCE OF PENAL SERVITUDE.

Persons under sentence of penal servitude how to be dealt with.

19. (*1*) Every person under sentence of penal servitude may be confined in such prison within [2][the Province] as the [3][Provincial Government] by general order, directs, and may, while so confined, be kept to hard labour and, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons under sentence of rigorous imprisonment may, for the time being, by law be dealt with.

(*2*) The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Enactments respecting persons under sentence of transportation or imprisonment with hard labour applied to persons under sentence of penal servitude.

20. Every enactment now in force in ~~British India~~ with respect to persons under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as is consistent with this Act, be construed to apply to persons under sentence of penal servitude.

Power to grant license to person sentenced to penal servitude.

[4][**21.** (*1*) The [5][Provincial Government] may grant to any person under sentence of penal servitude a license to be at large within such part of the Province and during such portion of his term of penal servitude as may be specified in the license and upon such conditions as the [6][Provincial Government] may by general or special order prescribe.

(*2*) The [5][Provincial Government] may revoke or, subject to such conditions, alter any license granted under sub-section (*1*).]

Licensee to be allowed

22. So long as any license granted under section 21, sub-section (*1*), continues in force and unrevoked, the licensee shall not be liable to im-

1 Subs. by the A. O. for "British Govt.".
2 Subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for "British India".
3 Subs. by the A. O. for the words "L. G." which had been subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for the words "G. G. in C.".
4 Subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for the original s. 21.
5 Subs. by the A. O. for "L. G.".
6 Subs. by the A. O. for "G. G. in C.".

prisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of the license. to go at large.

23. In case of the revocation of any such license as aforesaid, any Secretary to the [1][Provincial Government] may, by order in writing, signify to any Justice of the Peace or Magistrate that the license has been revoked, and require him to issue a warrant for the arrest of the licensee, and such Justice or Magistrate shall issue his warrant accordingly. Apprehension of convict where revoked.

24. A warrant issued under section 23 may be executed by any officer to whom it is directed or delivered for that purpose in any part of ~~British India~~, and shall have the same force in any place within ~~British India~~ as if it had been originally issued or subsequently endorsed by the Justice of the Peace or Magistrate or other authority having jurisdiction in the place where it is executed. Execution of warrant.

25. (*1*) When the licensee, for whose arrest a warrant has been issued under section 23, is arrested thereunder, he shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom the warrant was issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the licensee has been arrested. Licensee when arrested to be brought up for recommitment.

(*2*) Such Justice or Magistrate as aforesaid shall thereupon make out a warrant under his hand and seal for the recommitment of the licensee to the prison from which he was released under the license.

26. When a warrant has been issued under section 25, sub-section (*2*), the licensee shall be recommitted accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence Recommitment.

27. If a license is granted under section 21 upon any condition specified therein, and the licensee— Penalty for breach of condition of the license.

(*a*) violates any condition so specified ; or

(*b*) goes beyond the limits so specified ; or

(*c*) knowing of the revocation of the license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid arrest ;

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

---

[1] Subs by the A. O. for the words "L. G." which were subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for "G. of I.".

(*Part VI.—Removal of Prisoners.*)

PART VI.

REMOVAL OF PRISONERS.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

28. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

Removal of prisoners.

[1][**29.** (*1*) The [2][Provincial Government] may, by general or special order, provide for the removal of any prisoner confined in a prison—

(*a*) under sentence of death, or

(*b*) under, or in lieu of, a sentence of imprisonment or transportation, or

(*c*) in default of payment of a fine, or

(*d*) in default of giving security for keeping the peace or for maintaining good behaviour,

to any other prison in [3][the Province, or, with the consent of the Provincial Government concerned, to any prison in any other Province].

(*2*) [4][Subject to the orders, and under the control, of the Provincial Government,] the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province [5] * * .]

Lunatic prisoners how to be dealt with.

30. (*1*) Where it appears to the [6][Provincial Government] that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the [6][Provincial Government] may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the Province, there to be kept and treated as the [6][Provincial Government] directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

---

1 Subs. by the Amending Act, 1903 (1 of 1903), s. 3 and Sch. II, for the original section.

2 Subs. by the A. O., for "G. G. in C.".

3 Subs. by the A. O., for "British India or to any prison in Berar". The words "or to any prison in Berar" had been added by the Prisoners (Amendment) Act, 1923 (17 of 1923), s. 2.

4 Subs. by the A. O., for "The L. G., and (subject to its orders and under its control)".

5 The words "or, in the case of a prisoner so confined in a prison in the C. P., for his removal to any other prison in the Province or to any prison in Berar", which had been added by the Prisoners (Amendment) Act, 1923 (17 of 1923), s. 2, were rep. by the A. O.

6 Subs. by the A. O., for "L. G.".

(Part VI.—Removal of Prisoners. Part VII.—Persons under Sentence of Transportation.)

(*2*) Where it appears to the [1][Provincial Government] that the prisoner has become of sound mind, the [1][Provincial Government] shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the province, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(*3*) The provisions of section 9 of the Lunatic Asylums Act, 1858, shall apply to every person confined in a lunatic asylum under sub-section (*1*) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned ; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

[2][(*4*) In any case in which the [1][Provincial Government] is competent under sub-section (*1*) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the [1][Provincial Government] may order his removal to any such asylum or place within any other Province or within [3][any Indian State] by agreement with the [1][Provincial Government] of such other Province or with [4][such State or the Ruler thereof], as the case may be ; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed under sub-section (*1*) shall, so far as they can be made applicable, apply to a prisoner removed under this sub-section.]

31. [*Removal of prisoners from territories under one Local Government to territories under another.*] *Rep. by the Amending Act, 1903 (I of 1903), s. 4 and Sch. III.*

PART VII.

PERSONS UNDER SENTENCE OF TRANSPORTATION.

32. [5][(*1*)] The [6][Provincial Government] may appoint places[7] within [8][the Province] to which persons under sentence of transportation shall be sent ; and the [1][Provincial Government], or some officer duly authorised[9] Appointment of places for confinement.

1 Subs. by the A. O. for "L. G.".

2 Subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for the original sub-section (*4*).

3 Subs. by the A. O. for "the territories of any Native Prince or State in India".

4 Subs. by the A. O. for "such Native Prince or State".

5 S. 32 was re-numbered as sub-section (*1*) of that section by Act 38 of 1920, s. 2 and Sch. I.

6 Subs. by the A. O. for the words "L. G." which had been subs. by Act 38 of 1920, s. 2 and Sch. I, for the words "G. G. in C.".

7 For jails appointed to be places to which persons sentenced to be transported may be sent, *see* different local Rules and Orders.

8 Subs. by Act 38 of 1920, s. 2 and Sch. I, for "British India".

9 For notifications issued under this power, *see* different local Rules and Orders.

(Part VII.—Persons under Sentence of Transportation. Part VIII.—Discharge of Prisoners. Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.)

of persons under sentence of transportation and removal thereto.

in this behalf by the [1][Provincial Government], shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

[2][(*2*) In any case in which the [1][Provincial Government] is competent under sub-section (*1*) to appoint places within the Provinces and to order the removal thereto of persons under sentence of transportation, the [1][Provincial Government] may appoint such places in any other Province by agreement with the [1][Provincial Government] of that Province, and may by like agreement give orders or duly authorise some officer to give orders for the removal thereto of such persons.]

PART VIII.

Discharge of Prisoners.

Release, on recognizance, by order of High Court, of prisoner recommended for pardon.

33. [3][Any Court which is a High Court for the purposes of the Government of India Act, 1935,] may, in any case in which it has recommended to Her Majesty the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance. 26 Geo. 5, c. 2.

PART IX.

Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.

Attendance of Prisoners in Court.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

34. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

Power for Civil Courts to require appearance of prisoner to give evidence.

35. Subject to the provisions of section 39, any Civil Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

---

1 Subs. by the A. O. for "L. G.".
2 Ins. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.
3 Subs. by the A. O. for "Any Court established under the Indian High Courts Act, 1861,".

(*Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.*)

District Judge in certain cases to countersign orders made under section 35.

36. (*1*) Where an order under section 35 is made in any civil matter pending—

(*a*) in a Court subordinate to the District Judge, or

(*b*) in a Court of Small Causes outside a Presidency-town,

it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,—

(i) the District Judge to which the Court is subordinate, or

(ii) the District Judge within the local limits of whose jurisdiction the Court of Small Causes is situate.

(*2*) Every order submitted to the District Judge under sub-section (*1*) shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Causes, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge.

37. Subject to the provisions of section 39, any Criminal Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, or if a charge of an offence against such person is made or pending, make an order in the form set forth in the first or second schedule, as the case may be, directed to the officer in charge of the prison :

Provided that if such Criminal Court is inferior to the Court of a Magistrate of the first class, the order shall be submitted to, and countersigned by, the District Magistrate to whose Court such Criminal Court is subordinate or within the local limits of whose jurisdiction such Criminal Court is situated.

Order to be transmitted through Magistrate of the district or sub-division in which person is confined.

38. Where any person, for whose attendance an order as in this Part provided is made, is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it is made or countersigned to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person is confined, and that Magistrate shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Procedure where removal is desired of person confined in Presidency-town or

39. (*1*) Where a person is confined in a prison within a Presidency-town, or in a prison more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required shall, if he thinks that such person should be removed under this Part for the purpose of giving evidence in such

more than one hundred miles from place where evidence is required.

Court, and if the prison is within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the High Court, and the High Court may, if it thinks fit, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

(*2*) The High Court making an order under sub-section (*1*) shall send it to the District or Sub-Divisional Magistrate within the local limits of whose jurisdiction the person named therein is confined, or, in the case of a person confined in a prison within a Presidency-town, to the Commissioner of Police, and such Magistrate or Commissioner shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Persons confined beyond limits of appellate jurisdiction of High Court.

40. Where a person is confined in a prison beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he thinks that such person should be removed under this Part for the purpose of answering a charge of an offence or of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the [1][Provincial Government] of the territories within which the prison is situate, and the [1][Provincial Government] may, if it thinks fit, direct that the person be so removed, subject to such rules regulating the escort of prisoners as the [2][Provincial Government] may prescribe.

Prisoner to be brought up.

41. Upon delivery of any order under this Part to the officer in charge of the prison in which the person named therein is confined, that officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in the Court at the time in such order mentioned, and shall cause him to be detained in custody in, or near the Court until he has been examined or until the Judge or presiding officer of the Court authorises him to be taken back to the prison in which he was confined.

Power to Government to exempt certain prisoners from operation of this Part.

42. [3] * * * The [1][Provincial Government] may, by notification[4] in [5] * * * the [6][Official Gazette], [7] * * * direct that any person or any class of persons shall not be removed from the prison in which he or they may be confined ; and thereupon, and so long as such notification remains in force, the provisions of this Part, other than those con-

---

1 Subs. by the A. O. for "L. G.".

2 Subs. by the A. O. for "G. G. in C.".

3 The words "The G. G. in C. or" rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

4 For rules made under this section in conjunction with s. 51, *see* different local Rules and Orders.

5 The words "the Gazette of India or" rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

6 Subs. by the A. O. for "local official Gazette".

7 The words "as the case may be" rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

tained in sections 44 to 46, shall not apply to such person or class of persons.

Officer in charge of prison when to abstain from carrying out order.

43. In any of the following cases, that is to say,—

(*a*) where the person named in any order made under section 35, section 37 or section 39 appears to be, from sickness or other infirmity, unfit to be removed, the officer in charge of the prison in which he is confined, shall apply to the District or Sub-Divisional Magistrate within the local limits of whose jurisdiction the prison is situate, and if such Magistrate, by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed ; or

(*b*) where the person named in any such order is under committal for trial ; or

(*c*) where the person named in any such order is under a remand pending trial or pending a preliminary investigation ; or

(*d*) where the person named in any such order is in custody for a period which would expire before the expiration of the time required for removing him under this Part and for taking him back to the prison in which he is confined ;

the officer in charge of the prison shall abstain from carrying out the order, and shall send to the Court from which the order has been issued a statement of the reason for so abstaining :

Provided that such officer as aforesaid shall not so abstain where—

(i) the order has been made under section 37 ; and

(ii) the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be, from sickness or other infirmity, unfit to be removed ; and

(iii) the place, where the evidence of the person named in the order is required, is not more than five miles distant from the prison in which he is confined.

Commissions for Examination of Prisoners.

Commissions for examination of prisoners.

44. In any of the following cases, that is to say,—

(*a*) where it appears to any Civil Court that the evidence of a person confined in any prison within the local limits of the appellate jurisdiction of such Court, if it is a High Court, or if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who, for any of the causes mentioned in section

(*Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.*)

42 or section 43, cannot be removed, is material in any matter pending before it ; or

(*b*) where it appears to any such Court as aforesaid that the evidence of a person confined in any prison so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter ; or

(*c*) where the District Judge declines, under section 36, to countersign an order for removal ;

the Court may, if it thinks fit, issue a commission, under the provisions of the [1]Code of Civil Procedure, for the examination of the person in the prison in which he is confined. XIV of 1882.

Commissions for examination of prisoners beyond limits of appellate jurisdiction of High Court.

45. Where it appears to a High Court that the evidence of a person confined in a prison beyond the local limits of its appellate jurisdiction is material in any civil matter pending before it or before any Court subordinate to it, the High Court may, if it thinks fit, issue a commission, under the provisions of the [1]Code of Civil Procedure, for the examination of the person in the prison in which he is confined. XIV of 1882.

Commission how to be directed.

46. Every commission for the examination of a person issued under section 44 or section 45 shall be directed to the District Judge within the local limits of whose jurisdiction the prison in which the person is confined is situate, and the District Judge shall commit the execution of the commission to the officer in charge of the prison, or to such other person as he may think fit.

Service of Process on Prisoners.

Process how served on prisoners.

47. When any process directed to any person confined in any prison is issued from any Criminal or Revenue Court, it may be served by exhibiting to the officer in charge of the prison the original of the process and depositing with him a copy thereof.

Process served to be transmitted at prisoner's request.

48. (*1*) Every officer in charge of a prison upon whom service is made under section 47 shall, as soon as may be, cause the copy of the process deposited with him to be shown and explained to the person to whom it is directed, and shall thereupon endorse upon the process and sign a certificate to the effect that such person as aforesaid is confined in the prison under his charge and has been shown and had explained to him a copy of the process.

(*2*) Such certificate as aforesaid shall be *primâ facie* evidence of the service of the process, and, if the person to whom the process is directed requests that the copy shown and explained to him be sent to any other person and provides the cost of sending it by post, the officer in charge of the prison shall cause it to be so sent.

---

[1] *See* now the Code of Civil Procedure, 1908 (5 of 1908).

(*Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.*)

Miscellaneous.

Application of Part in certain cases.

49. (*1*) For the purposes of this Part, the Courts of Small Causes established in the Presidency-towns and the Courts of Presidency Magistrates shall be deemed to be subordinate to the High Court of Judicature at Fort William, Madras or Bombay, as the case may be.

[1]* * * * * * *

Deposit of costs.

50 No order in any civil matter shall be made by a Court under any of the provisions of this Part until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court :

Provided that, if upon any application for such order it appears to the Court to which the application is made, that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by the [2][Provincial Government] from any person ordered by the Court to pay the same, as if it were costs in a suit recoverable under the [3]Code of Civil Procedure.

XIV of 1882.

Power to make rules under this Part.

51. (*1*) The [4][Provincial Government] [5]* * * may make rules[6]—

(*a*) for regulating the escort of prisoners to and from Courts in which their attendance is required and for their custody during the period of such attendance ;

(*b*) for regulating the amount to be allowed for the costs and charges of such escort ; and

(*c*) for the guidance of officers in all other matters connected with the enforcement of this Part.

(*2*) All rules made under sub-section (*1*) shall be published in the [7][Official Gazette] [8]* * , and shall, from the date of such publication, have the same force as if enacted by this Act.

---

1 The second and third paragraphs rep. by the Lower Burma Courts Act, 1900 (6 of 1900), s 48 and Sch. II.

2 Subs by the A. O. for "Govt.".

3 *See* now the Code of Civil Procedure, 1908 (5 of 1908).

4 Subs. by the A O. for "L G.".

5 The words "and in cases arising under s. 40, the G. G. in C." rep. by the A. O.

6 For rules, *see* Gen. R. and O. and different local Rules and Orders.

7 Subs. by the A O. for "local official Gazette".

8 The words "or the Gazette of India, as the case may be" rep. by the A. O. 1937

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence. The First, Second and Third Schedules.)

Power to declare who shall be deemed officer in charge of prison.

52. The [1][Provincial Government] may declare what officer shall, for the purposes of this Part, be deemed to be the officer in charge of a prison.[2]

53. [*Repeals.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

THE FIRST SCHEDULE.

(See sections 35 and 37.)

Court of .

To the officer in charge of the (*state name of prison*).

You are hereby required to produce , now a prisoner in , under safe and sure conduct before the Court of at on the day of next by of the clock in the forenoon of the same day, there to give evidence in a matter now pending before the said Court, and after the said has then and there given his evidence before the said Court or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the prison.

The day of .

A. B.

(Countersigned) *C. D.*

THE SECOND SCHEDULE.

(See section 37.)

Court of .

To the officer in charge of the (*state name of prison*).

You are hereby required to produce , now a prisoner in , under safe and sure conduct before the Court of at on the day of next by of the clock in the forenoon of the same day, there to answer a charge now pending before the said Court, and after such charge has been disposed of or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

The day of .

A. B.

(Countersigned) *C. D.*

[*THE THIRD SCHEDULE*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

---

1 Subs. by the A. O. for "L. G.".

2 For notifications issued under this section, *see* different local Rules and Orders.

THE PUNJAB ALIENATION OF LAND ACT, 1900.

CONTENTS.

Preliminary.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
2A. Application of Act to sections 53 and 54, Act XVI, 1887.

Permanent Alienation of Land.

3. Sanction of Deputy Commissioner required to certain permanent alienations.
4. Agricultural tribes.
5. Saving for rights in land alienated.

Temporary Alienations of Land.

6 Forms of mortgage permitted in certain cases.
7. Rules applying to permitted mortgages.
8. Conditions in permitted mortgages.
9. Power to revise mortgage made in form not permitted.
10. Future mortgage by way of conditional sale not permitted.
11. Leases and farms.
12. Restriction on power to make further temporary alienation.
13. Ejectment of mortgagee, lessee or farmer remaining in possession after term.

General Provisions.

14. Effect of permanent alienation made without sanction.
15 Sanction of Deputy Commissioner required to certain alienations of, or charges on, produce of land.
16 Execution-sale of land forbidden.
17. Registration.
18. Record-of-rights and annual record.
19. Application of certain provisions of the Punjab Land-revenue Act, 1887.
20. Appearance of legal practitioners forbidden.
21. Jurisdiction of Civil Courts excluded.
21A. Civil Court to send copy of decree or order to Deputy Commissioner.
Action to be taken by Deputy Commissioner when decree or order passed contrary to Act.
22 [*Repealed.*]
23. Exercise of powers of Deputy Commissioner.
24. Exemption.
25. Power to make rules.

(*Preliminary.*)

ACT No. XIII OF 1900.[1]

[*19th October 1900.*]

An Act to amend the law relating to agricultural land in the Punjab.

WHEREAS it is expedient to amend the law relating to agricultural land in the Punjab ; It is hereby enacted as follows :—

(2) It extends to the Provinces of East Punjab and Delhi.)

~~by the Lieutenant Governor of the Punjab ; and~~

(*3*) It shall come into force on such day[3] as the [4][Central Government] may, by notification in the [5][Official Gazette], direct.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject, or context,—

[6]* * * * * * *

(*2*) all expressions which are defined by section 4 of the Punjab Tenancy Act, 1887, or by section 3 of the Punjab Land-revenue Act, 1887, shall, subject to the provisions of this Act, have the meanings assigned to them in the said sections respectively ; and the expressions "record-of-rights" and "annual record" shall have the meanings assigned to them respectively in Chapter IV of the said last-mentioned Act : XVI of 1887. XVII of 1887.

(*3*) the expression "land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes—

(*a*) the sites of buildings and other structures on such land ;

[7][(*aa*) any rights of occupancy acquired under the Punjab Tenancy Act, 1887, the Hazara Tenancy Regulation, 1887 or the Agror Valley Regulation, 1891, as the case may be ;] XVI of 1887. Reg. XIII of 1887. Reg. IV of 1891.

(*b*) a share in the profits of an estate or holding ;

(*c*) any dues or any fixed percentage of the land-revenue payable by an inferior landowner to a superior landowner ;

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 135 ; for Report of the Select Committee, *see ibid*, 1900, Pt. V, p. 91 ; and for further Report, *see ibid*, p. 107 ; for Proceedings in Council, *see ibid*, 1899, Pt. VI, p. 216 ; and *ibid*, 1900, pp. 168, 177 and 193.

2 In the N.-W. F. P. the reference to these territories is to be construed as referring to the N.-W. F. P. : *see* s. 6 (*1*) (*a*) of the N.-W. F. P. Law and Justice Regulation, 1901 (7 of 1901).

3 The Act came into force on the 8th June 1901, *see* Gazette of India, 1901, Pt. I, p. 382.

4 Subs. by the A. O. for "G. G. in C.".

5 Subs. by the A. O. for "Gazette of India".

6 Sub-section (*1*) of s. 2 and the provisos were rep. in the N.-W. F. P. by Reg. 1 of 1904, s. 1 (*i*), and in the Punjab by the Punjab Alienation of Land Amendment Act, 1907 (Punjab 1 of 1907), s. 2 (*1*).

7 Ins. for the N.-W. F. P. only, by Reg. I of 1904, s. 1 (*ii*).

(*d*) a right to receive rent ; [1]*

(*e*) any right to water enjoyed by the owner or occupier of land as such ;

[2][(*f*) any right of occupancy ;] [3][and

(*g*) all trees standing on such land :]

[4][(*4*) the expression "permanent alienation" includes sales, exchanges, gifts, wills and grants of occupancy rights :]

(*5*) the expression "usufructuary mortgage" means a mortgage by which the mortgagor delivers possession of the mortgaged land to the mortgagee and authorises him to retain such possession until payment of the mortgage-money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage-money or partly in lieu of interest and partly in payment of the mortgage-money : and

(*6*) the expression "conditional sale" includes any agreement whereby in default of payment of the mortgage-money or interest at a certain time the land will be absolutely transferred to the mortgagee.

Application of Act to sections 53 and 54, Act XVI, 1887.

XVI of 1887.

[5][**2A.** Notwithstanding anything contained in sections 53 and 54 of the Punjab Tenancy Act, 1887, when a land-lord makes a claim to exercise the rights thereby conferred upon him the provisions of this Act shall apply thereto.]

Permanent Alienation of Land.

Sanction of Deputy Commissioner required to certain permanent alienations.

3. (*1*) A person who desires to make a permanent alienation of his land shall be at liberty to make such alienation where—

(*a*) the alienor is not a member of an agricultural tribe ; or

[6]* * * * * * *

(*c*) the alienor is a member of an agricultural tribe and the alienee is a member of the same tribe or of a tribe in the same group.

[6]* * * * * * *

(*2*) Except in the cases provided for in sub-section (*1*), a permanent alienation of land shall not take effect as such unless and until sanction is given thereto by a Deputy Commissioner :

[7][Provided that—

(*1*) sanction may be given after the act of alienation is otherwise completed, and

---

1 The word "and" was rep. in the Punjab by the Punjab Alienation of Land (Amendment) Act, 1936 (Punjab 7 of 1936), and in the N.-W. F. P. by the Punjab Alienation of Land (N.-W. F. P. Amendment) Act, 1937 (N.-W. F. P. 5 of 1937).

2 Ins. by the Punjab Alienation of Land Amendment Act, 1907 (Punjab 1 of 1907), s. 2.

3 Ins. for the Punjab by Punjab Act 7 of 1936. In the N.-W. F. P., for "trees" read "fruit-bearing trees" : *see* N.-W. F. P. Act 5 of 1937.

4 Subs. by s. 2 of Punjab Act 1 of 1907 for the original cl. (*4*).

5 Ins. by s. 3, *ibid.*

6 Cl. (*b*) and the proviso rep. by s. 4 (*1*), *ibid.*

7 Subs. by s. 4 (*2*), *ibid*, for the original proviso.

(*Permanent Alienation of land. Temporary Alienations of Land.*)

(*2*) sanction shall not be necessary in the case of—

(*a*) a sale of a right of occupancy by a tenant to his landlord, or

(*b*) a gift made in good faith for a religious or charitable purpose, whether *inter vivos* or by will.]

(*3*) The Deputy Commissioner shall inquire into the circumstances of the alienation and shall have discretion to grant or refuse the sanction required by sub-section (*2*).

Agricultural tribes.

4. The [1][Provincial Government] shall, by notification[2] in the [3][Official Gazette], [4]* * determine what bodies of persons in any district or group of districts are to be deemed to be agricultural tribes or groups of agricultural tribes for the purposes of this Act.[5]

Saving for rights in land alienated.

5. When a Deputy Commissioner sanctions a permanent alienation of land, his order shall not be taken to decide or affect any question of title, or any question relating to any reversionary right or right of pre-emption.

Temporary Alienations of Land.

Forms of mortgage permitted in certain cases

6. (*1*) If a member of an agricultural tribe mortgages his land and the mortgagee is not a member of the same tribe, or of a tribe in the same group, the mortgage shall be made in one of the following forms :—

(*a*) in the form of a usufructuary mortgage, by which the mortgagor delivers possession of the land to the mortgagee and authorises him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be re-delivered to the mortgagor ; or

(*b*) in the form of a mortgage without possession, subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract, the mortgagee may apply to the Deputy Commissioner to place him in possession for such term, not exceeding twenty years, as the Deputy Commissioner may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to

---

1 Subs. by the A. O. for "L. G.".

2 For notification declaring certain tribes in the Rawalpindi District, including the Attock Tahsil, to be agricultural tribes, *see* Punjab Gazette, 1902, Pt. I, p. 594.

3 Subs. by the A. O. for "local official Gazette".

4 The words "published with the previous sanction of the G. G. in C." rep. by the Punjab Alienation of Land Amendment Act, 1907 (Punjab 1 of 1907), s. 5.

5 For notification issued under this power, *see* Punjab Gazette, 1901, Pt. I, p. 528, and as to the Dera Ghazi Khan District, *see ibid*, 1902, Pt. I, p. 292, Gazette of India, 1904, Pt. II, p. 826.

the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Deputy Commissioner thinks reasonable ; or

(*c*) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landlord and himself remains in cultivating occupancy of the land as a tenant subject to the payment of rent at such rate as may be agreed upon not exceeding sixteen annas per rupee of the amount of the land-revenue in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon and for such term as may be agreed on, the mortgagor having no right to alienate his right of cultivating occupancy and the mortgagee having no right to eject the mortgagor unless on the grounds mentioned in section 39 of the Punjab Tenancy Act, 1887 ; or XVI of 1887.

(*d*) in any form which the [1][Provincial Government] may, by general or special order, permit to be used.

(*2*) If in the case of a mortgage in form (*c*) the mortgagor is ejected or relinquishes or abandons cultivating occupancy of the land, the mortgage shall take effect as a usufructuary mortgage in form (*a*) for such term not exceeding twenty years from the date of ejectment, relinquishment or abandonment, and for such sum of money as the Deputy Commissioner considers to be reasonable.

[2][(*3*) The Deputy Commissioner, if he accepts the application of a mortgagee under sub-section (*1*) (*b*), shall have power to eject the mortgagor, and as against the mortgagor to place the mortgagee in possession.]

Rules applying to permitted mortgages.

7. In the case of mortgages made under section 6—

(*1*) no interest shall accrue during the period for which the mortgagee is in possession of the land or in receipt of rent ;

(*2*) if the mortgage is in form (*a*) or form (*b*), then at the end of such period of possession the mortgage-debt shall be extinguished ;

(*3*) the mortgagor may redeem his land at any time during the currency of the mortgage, on payment of the mortgage-debt or, in the case of a mortgage in form (*a*) or form (*b*), of such proportion of the mortgage-debt as the Deputy Commissioner determines to be equitable ; and

---

1 Subs. by the A. O. for "L. G.".

2 Ins. by the Punjab Alienation of Land Amendment Act, 1907 (Punjab 1 of 1907), s. 6.

(*4*) in the case of a usufructuary mortgage, the mortgagor shall not be deemed to bind himself personally to repay the mortgage-money ;

[1][(*5*) if a mortgagor who has applied to the Deputy Commissioner under sub-section (*3*) proves to the satisfaction of the Deputy Commissioner that he has paid the mortgage-debt or such proportion of the mortgage-debt as the Deputy Commissioner has determined to be equitable, or deposits with the Deputy Commissioner the amount of such mortgage-debt or of such proportion thereof, the redemption of the land shall be deemed to have taken place, and the Deputy Commissioner shall have power to eject the mortgagee, if in possession, and as against the mortgagee to place the mortgagor in possession.]

Conditions in permitted mortgages

8. (*1*) In a mortgage made under section 6, the following conditions may be added by agreement between the parties :—

(*a*) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof ;

(*b*) conditions limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage trees or to do any act affecting the permanent value of the land ; and

(*c*) any condition which the [2][Provincial Government] by general or special order may declare to be admissible.

(*2*) In mortgages made under section 6 any condition not permitted by or under this Act shall be null and void.

Power to revise mortgage made in form not permitted.

9. (*1*) If a member of an agricultural tribe makes a mortgage of his land in any manner or form not permitted by or under this Act, the Deputy Commissioner shall have authority to revise and alter the terms of the mortgage so as to bring it into accordance with such form of mortgage permitted by or under this Act as the mortgagee appears to him to be equitably entitled to claim.

(*2*) If a member of an agricultural tribe has before the commencement of this Act made a mortgage of his land in which there is a condition intended to operate by way of conditional sale, the Deputy Commissioner shall be empowered at any time during the currency of the mortgage to put the mortgagee to his election whether he will agree to the said condition being struck out, or to accept in lieu of the said mortgage a mortgage which may at the mortgagee's option be either in form (*a*) or in form (*b*) as permitted by section 6 and which shall be made for such period not exceeding the period permitted by the said section and for such sum of money as the Deputy Commissioner considers to be reasonable.

---

[1] Ins. by the Punjab Alienation of Land Amendment Act, 1907 (Punjab 1 of 1907), s. 7.

[2] Subs. by the A. O. for "L. G.".

(*Temporary Alienations of Land.*)

(*3*) If proceedings for the enforcement of a condition intended to operate by way of conditional sale are instituted or are pending at the commencement of this Act in any Civil Court, or if a suit is instituted in any Civil Court on a mortgage to which sub-section (*1*) or sub-section (*2*) applies, the Court shall refer the case to the Deputy Commissioner with a view to the exercise of the power conferred by the sub-section applying thereto.

[1][(*4*) When a mortgagee put to his election under sub-section (*2*) agrees to accept in lieu of his mortgage, a mortgage in form (*a*) or in form (*b*) as permitted by section 6 for the period and for the sum of money considered by the Deputy Commissioner to be reasonable, and the mortgagor cannot be found, or fails to appear when duly served with notice to do so, or refuses or neglects to execute such mortgage, the Deputy Commissioner shall have authority to execute such mortgage on such terms as to costs as he may fix and the mortgage so executed shall have effect as if it had been executed by the mortgagor. The Deputy Commissioner may for any reason which he deems sufficient set aside any *ex-parte* proceedings taken under this sub-section.]

Future mortgage by way of conditional sale not permitted.

10. In any mortgage of land made after the commencement of this Act any condition which is intended to operate by way of conditional sale shall be null and void.

Leases and farms.

11. Any member of an agricultural tribe may make a lease or farm of his land for any term not exceeding twenty years, and any lease or farm made by a member of an agricultural tribe for a longer term than twenty years shall, if the lessee or farmer is not a member of the same tribe or of a tribe in the same group, be deemed to be a lease or farm for the term permitted by this section.

Restriction on power to make further temporary alienation.

12. (*1*) During the currency of a mortgage made under section 6 in form (*a*) or form (*b*) or of a lease or farm under this Act, the owner shall be at liberty to make a further temporary alienation of the same land for such term as together with the term of the current mortgage, lease or farm will make up a term not exceeding the full term of twenty years.

(*2*) Any such further temporary alienation, if made for a longer term than is permitted by this section, shall be deemed to be a temporary alienation for the term permitted by this section.

Ejectment of mortgagee, lessee or farmer remaining in possession after term.

13. If a mortgagee, lessee or farmer holding possession under a mortgage made under section 6 or under a lease or farm made under section 11 or under a mortgage, lease or farm made under section 12 remains in possession after the expiry of the term for which he is entitled to hold under his mortgage, lease or farm, the Deputy Commissioner may, of his own motion or on the application of the person entitled to possession, eject such mortgagee, lessee or farmer and place the person so entitled in possession.

1 Ins. by the Punjab Alienation of Land Amendment Act, 1907 (Punjab 1 of 1907), s. 8.

(*General Provisions.*)

General Provisions.

Effect of permanent alienation made without sanction.

14. Any permanent alienation which under section 3 is not to take effect as such until the sanction of a Deputy Commissioner is given thereto shall, until such sanction is given or if such sanction has been refused, take effect as a usufructuary mortgage in form (*a*) permitted by section 6 for such term not exceeding twenty years and on such conditions as the Deputy Commissioner considers to be reasonable.

Sanction of Deputy Commissioner required to certain alienations of, or charges on, produce of land.

15. Every agreement whereby a member of an agricultural tribe purports to alienate or charge the produce of his land or any part of, or share in, such produce for more than one year shall not take effect for more than one year from the date of the agreement unless the sanction of a Deputy Commissioner is given thereto, and shall, until such sanction is given or if such sanction is refused, take effect as if it had been made for one year.

Explanation.—The produce of land means—

(*a*) crops and other products of the earth standing or ungathered on the holding ;

(*b*) crops and other products of the earth which have been grown on the land during the past year and have been reaped or gathered.

Execution-sale of land forbidden.

16. (*1*) No land belonging to a member of an agricultural tribe shall be sold in execution of any decree or order of any Civil or Revenue Court, whether made before or after the commencement of this Act.

[1](*2*) Nothing in this section shall affect the right of [2][any Government] to recover arrears of land-revenue, or any dues which are recoverable as arrears of land-revenue, in any manner now permitted by law.

Registration.

17. Notwithstanding anything in the Indian Registration Act, 1877[3], or in any rule made under section 69 of that Act,— III of 1877.

(*1*) an instrument which contravenes any provision of this Act shall not be admitted to registration ;

(*2*) an instrument which records or gives effect to any transaction which requires the sanction of a Deputy Commissioner shall not be admitted to registration until a certified copy of the order giving such sanction is produced to the officer empowered to register such instrument.

Record-of-rights and annual record.

18. (*1*) Where, by reason of any transaction which under this Act requires the sanction of a Deputy Commissioner, a person claims to have acquired a right the acquisition whereof he is bound to report under section 34 of the Punjab Land-revenue Act, 1887, such person shall, in making XVII of 1887.

1 In the Punjab, this sub-section has been re-numbered as sub-section (*3*), and a new sub-section (*2*) has been ins., by the Punjab Alienation of Land (Amendment) Act, 1931 (Punjab 1 of 1931), s. 2.

2 Subs. by the A. O., for "Govt.".

3 *See* now the Indian Registration Act, 1908 (16 of 1908).

his report, state whether the sanction required has been obtained or not, and his right so acquired shall not be entered in the record-of-rights or in any annual record until he produces such evidence of the order by which such sanction is given as may be required by any rules made under this Act.

(*2*) No right claimed by reason of any transaction or condition which is declared by this Act to be null and void shall be entered in the record-of-rights or in any annual record.

XVII of 1887.

Application of certain provisions of the Punjab Land-revenue Act, 1887.

19. [1]Subject to the provisions of this Act, the provisions of Chapter II of the Punjab Land-revenue Act, 1887, shall, in so far as they are applicable, apply to the proceedings of Revenue-officers under this Act.

Appearance of legal practitioners forbidden.

20. No legal practitioner shall appear on behalf of any party interested in any proceeding before a Revenue-officer under this Act.

Explanation.—The term "legal practitioner" includes a mukhtar.

Jurisdiction of Civil Courts excluded.

21. (*1*) A Civil Court shall not have jurisdiction in any matter which the [2][Provincial Government] or a Revenue-officer is empowered by this Act to dispose of.

(*2*) No Civil Court shall take cognizance of the manner in which the [2][Provincial Government] or any Revenue-officer exercises any power vested in it or in him by or under this Act.

XIV of 1882.

Civil Court to send copy of decree or order to Deputy Commissioner.

[3][**21A.** (*1*) Notwithstanding anything contained in the [4]Code of Civil Procedure or in any other Act for the time being in force, every Civil Court which passes a decree or order involving (*1*) the permanent alienation of his land by a member of an agricultural tribe or (*2*) the mortgage by a member of an agricultural tribe of his land when the mortgagee is not a member of the same tribe or of a tribe in the same group, shall send to the Deputy Commissioner a copy of such decree or order.

Action to be taken by Deputy Commissioner when decree or order passed contrary to Act.

(*2*) When it appears to the Deputy Commissioner that any Civil Court has either before or after the date when this section comes into operation, passed a decree or order contrary to any of the provisions of this Act, the Deputy Commissioner may apply for the revision of such decree or order to the Court, if any, to which an appeal would lie from such decree or order or in which an appeal could have been instituted at the time when the decree or order was passed or in any other case to the [5][High Court]. And when the Court finds that such decree or order is contrary to any of the provisions of this Act it shall alter it so as to

1 For rules to be read as added to Ch. 5 of the rules made under Act 17 of 1887, *see* Punjab Gazette Extraordinary, dated 25th May 1901, p. 4.

2 Subs. by the A. O. for "L. G.".

3 S. 21A was ins. by the Punjab Alienation of Land Amendment Act, 1907 (Punjab 1 of 1907), s. 9.

4 *See* now the Code of Civil Procedure, 1908 (5 of 1908).

5 Subs. by the Repealing and Amending Act, 1919 (18 of 1919), for "Chief Court".

make it consistent with this Act. Such application shall be made within two months of the date upon which the Deputy Commissioner is informed of such decree or order.

(*3*) When any such Appellate Court passes an order, rejecting such application, the Deputy Commissioner may, within two months after the date upon which he is informed of such order, apply to the [1][High Court] for revision thereof.

(*4*) Every Civil Court which passes an order on any application made under this section shall forthwith send a copy thereof to the Deputy Commissioner.

(*5*) No stamp shall be required upon such applications, and the provisions of the [2]Code of Civil Procedure as regards appeals shall apply so far as may be to the procedure of the Court on receipt of such application : XIV of 1882.

Provided that no appearance by or on behalf of the Deputy Commissioner shall be deemed necessary for the disposal of the application.]

22. [*Addition to section 77 of Act XVI of 1887.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

Exercise of powers of Deputy Commissioner.

23. The powers conferred by this Act upon a Deputy Commissioner may be exercised by a Revenue-officer of higher rank, or by any officer authorised by the [3][Provincial Government] in this behalf.

Exemption.

24. The [3][Provincial Government] [4]* * * may, by notification[5] in the [6][Official Gazette], exempt any district or part of a district or any person or class of persons from the operation of this Act or of any of the provisions thereof.

Power to make rules.

25. (*1*) The [3][Provincial Government] may make rules[7] for carrying into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the [3][Provincial Government] may make rules[7] prescribing the Revenue-officers to whom applications may be made, and the manner and form in which such applications shall be made and disposed of.

---

1 Subs. by the Repealing and Amending Act, 1919 (18 of 1919), for "Chief Court".

2 *See* now the Code of Civil Procedure, 1908 (5 of 1908).

3 Subs. by the A. O. for "L. G.".

4 The words "with the previous sanction of the G. G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

5 For districts exempted under this section, *see* Punjab Gazette, 1901, Pt. I, p. 1096 ; *ibid*, 1902, Pt. I, p. 418 and for notification exempting every area included in any Cantonment or Municipality except those in the Simla District from the operation of the provisions of the Act, except s. 1, s. 2 (*1*), (*2*), (*3*) and (*5*), ss. 4, 10, 16 and 18 (*2*) and ss. 21 (*2*) and 24, *see ibid.*

6 Subs. by the A. O. for "local official Gazette".

7 For the rules under this section, *see* Punjab Gazette, 1901, Pt. I, p. 1176 ; Gazette of India, 1904, Pt. II, pp. 827-828, and N.-W. F. P. Gazette, dated 12th November 1915, page 970.

2. In this Act, unless there is anything repugnant in the subject of context,-

(a) the expression "authorised followers" means persons other than officers, soldiers or airmen, who are employed by, or are in the service of, the Forces or Corps concerned, or are in the service of any officer, soldier or airman of such Forces or Corps;

(b) "carriage" means a vehicle for carriage or haulage other than one specially constructed for use on rails;

(c) "ferry" includes every bridge and other thing which is ferry within the meaning of any enactment authorising the levy of tolls on ferries, but does not include any ferry or other thing which is included in the definition of "railway" in section 3 of the Indian Railways Act, 1890;

(d) the expression "His Majesty's Regular Forces" has the meaning assigned to it by section 190, clause (8), of the Army Act, and includes His Majesty's Regular Air Force as defined by section 190, clause (8), of the Air Force Act, the Indian Air Force, and also the Indian Reserve Forces when subject to military or air force law, as the case may be;

(e) "horse" includes a mule and any beast of what-ever description which is used for burden or draught or for carrying persons;

(f) the expression "Irregular Corps" means any force (other than the Auxiliary Force (India) or the Indian Territorial Force) raised and maintained in India under the authority of the Central Government or any other force which may be notified in this behalf by order published in the official Gazette;

(g) the expression "Indian Reserve Forces" means the forces constituted by the Indian Reserve Forces Act, 1888, and includes officers belonging to the Army in India Reserve of Officers or to the Indian Regular Reserve of Officers and members of the Royal Air Force Volunteer Reserve and the Indian Air Force Volunteer Reserve when subject to military or air force law, as the case may be;

(h) "landing-place" includes a pier, wharf, quay, jetty and a stage, whether fixed or floating;

(i) "public authority" means the Central Government or a Provincial Government or a local authority; and, so far as regards tolls levied by a railway company under section 4 of the Indian Guaranteed Railways Act, 1879, or section 51 of the Indian Railways Act, 1890, includes such a railway company; and

(j) "tolls" includes duties, dues, rates, rents, fees and charges, but does not include customs duties levied under the Indian Tariff Act, 1934, octroi duties or town duties on the import of goods, or fares paid for the conveyance of passengers on a tramway.

THE INDIAN TOLLS (ARMY) ACT, 1901.

ACT No. II OF 1901.[1]

[*22nd February, 1901.*]

An Act to amend the law relating to the exemption from tolls of persons and property belonging to the Army [2][or Air Force].

WHEREAS certain officers, soldiers, [2][airmen] and other persons, and certain animals, baggage and carriages belonging or attached to the Army [2][or to the Air Force], are exempted by section 143 of the [3]Army Act [2][or by section 143 of the Air Force Act] from payment of certain duties or tolls ;

14 & 45 Vict., c. 58.

And whereas similar exemptions are made by various enactments of the Indian legislatures, but these exemptions are not co-extensive with those made by the said [3]Army Act ;

And whereas it is expedient to remove the inconsistency now existing between the said [3]Army Act and the said enactments, and to exempt certain other persons and property belonging to the Army [2][or Air Force] from payment of certain tolls ;

And whereas it is declared by section 169 of the said [3]Army Act [2][and by section 169 of the said Air Force Act] that "it shall be lawful for the Governor General of India . . . . to provide by law for reducing any fine directed by this Act to be recovered on summary conviction to such amount as may appear to the Governor General . . . . to be better adapted to the pecuniary means of the inhabitants ; and also to declare the amount of the local currency which is to be deemed for the purposes of this Act to be equivalent to any sum of British currency mentioned in this Act," and it is expedient to alter in the manner hereinafter appearing the fine imposed by section 143 of the said [3]Army Act [2][and by section 143 of the said Air Force Act] ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Tolls (~~Army~~) Act, 1901.

(*2*) It extends to ~~the whole of British India~~, inclusive of British ~~Baluchistan~~, the Santhal Parganas and the Pargana of Spiti ; and

(*3*) It shall come into force on the first day of April, 1901.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "ferry" includes every bridge and other thing which is a ferry within the meaning of any enactment authorising the levy

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 175 ; for Report of the Select Committee, *see ibid*, 1901, Pt. V, p 7 ; for Proceedings in Council, *see ibid*, 1900, Pt. VI, p. 236 ; *ibid*, 1901, Pt. VI, pp. 11 and 16.

2 Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

3 Coll. Stat., Vol. I.

of tolls on ferries, but does not include any ferry or other thing which is included in the definition of "railway" in section 3 of the Indian Railways Act, 1890 : IX of 1890.

(*b*) the expression "His Majesty's Regular Forces" has the meaning assigned to it by section 190, clause (*8*), of the [1]Army Act, and includes [2][His Majesty's Regular Air Force as defined by section 190, clause (*8*), of the Air Force Act [3][, the Indian Air Force] and also] the Indian Reserve Forces when subject to military law : 44 & 45 Vict., c. 58.

(*c*) "horse" includes a mule and any beast of whatever description which is used for burden or draught or for carrying persons :

(*d*) the expression "Indian Reserve Forces" means the forces constituted by the Indian Reserve Forces Act, 1888, and includes persons holding commissions in the Indian Army Reserve of Officers when called out in any military capacity : IV of 1888.

(*e*) "landing-place" includes a pier, wharf, quay, jetty and a stage, whether fixed or floating :

(*f*) the expression "local corps" means the Hyderabad Contingent, the Central India Horse, the Malwa Bhil Corps, the Bhopal Battalion, the Deoli Irregular Force, the Erinpura Irregular Force, the Meywar Bhil Corps, the Merwara Battalion and the Escort of the Resident in Nepal, and includes any other corps which may be notified by the [4][Central Government] in this behalf by order published in the [5][Official Gazette] :

(*g*) "public authority" means [6][the Central Government or the Federal Railway Authority or a Provincial Government] or a local authority ; and so far as regards tolls levied by a railway company under section 4 of the Indian Guaranteed Railways Act, 1879,[1] or section 51 of the Indian Railways Act, 1890, includes such a railway company : and 42 and 43 Vict., c. 41. IX of 1890.

(*h*) "tolls" include duties, dues, rates, rents, fees and charges, but do not include customs-duties levied under the [7]Indian Tariff Act, 1894, octroi-duties or town-duties on the import of goods, or fares paid for the conveyance of passengers on a tramway. VIII of 1894.

---

1 Coll. Stat., Vol. I.

2 Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

3 Ins. by the Indian Air Force Act, 1932 (14 of 1932), s. 130 and Sch.

4 Subs. by the A. O. for "G. G. in C.".

5 Subs. by the A. O. for "Gazette of India".

6 Subs. by the A. O. for "the Govt.".

7 *See* now the Indian Tariff Act, 1934 (32 of 1934).

(a) All Officers , soldiers and airmen of :-

(i) His Majesty's Regular Forces,

(ii) any Irregular Corps, or

(iii) Indian State Forces, when on duty or on the march,

(b) All members of the Auxiliary Force (Indian) or of the Indian Territorial Force when on duty or when proceeding to or returning from duty,

(c) All officers, soldiers and airmen of the Indian Reserve Forces when proceeding from their place of residence on being called out for service, training, or muster or when proceeding back to their place of residence after such service, training or muster,

(d) All authorised followers of :-

(i) His Majesty's Regular Forces,

(ii) the Auxiliary Force (India) or the Indian Territorial Force,

(iii) Indian State Forces,

When they accompany any body of such Forces or Corps on the march, or when they are otherwise moving under the orders of military or air force authority,

(e) All members of the families of officers, soldiers, airmen or authorised followers of :-

(i) His Majesty's Regular Forces, or

(ii) any Irregular Corps,

When accompanying any body of troops, or any officer soldier, airman or authorised follower thereof on duty or on the march,

(f) all prisoners under military or air force escort,

(g) The carriage, horses, and baggage, and the persons (if any) employed in driving the carriage or in carrying the baggage, or any person exempted under any of the foregoing clauses, when such carriages, horses, baggage, or persons accompany the Persons so exempted under the circumstances mentioned in those clauses respectively.

Exemptions from tolls

3. The following persons and property, namely :—

(*a*) ~~all officers, [1][soldiers and airmen] of—~~

(*i*) His Majesty's Regular Forces,

[2][and all officers and soldiers of—]

(*ii*) any local corps, or

(*iii*) Imperial Service Troops,

when on duty or on the march,

(*b*) all members of a corps of Volunteers when on duty or when proceeding to or returning from duty,

(*c*) all officers and soldiers of the Indian Reserve Forces when proceeding from their place of residence on being called out for training or service or when proceeding back to their place of residence after such training or service,

(*d*) all grass-cutters when employed in the service of—

(*i*) His Majesty's Regular Forces,

(*ii*) any local corps,

(*iii*) Imperial Service Troops, or

(*iv*) any corps of Volunteers,

(*e*) all other authorised followers of—

(*i*) His Majesty's Regular Forces,

(*ii*) any local corps,

(*iii*) Imperial Service Troops, or

(*iv*) any corps of Volunteers,

when they accompany any body of such Forces, Troops or Volunteers or any members of such corps on the march, or when they are otherwise moving under the orders of military [2][or air-force] authority,

(*f*) all members of the families of officers, soldiers, [2][airmen] or authorised followers of—

(*i*) His Majesty's Regular Forces, or

(*ii*) any local corps,

when accompanying any body of troops, or any officer, soldier, [2][airman] or authorised follower thereof on duty or the march,

(*g*) all prisoners under military [2][or air-force] escort,

---

1 Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "and soldiers".

~~2 Ins. by s. 2 and Sch. I, *ibid.*~~

(*h*) the horses and baggage, and the persons (if any) employed in carrying the baggage, of any persons exempted under any of the foregoing clauses, when such horses, baggage or persons accompany the persons so exempted under the circumstances mentioned in those clauses respectively,

(*i*) all carriages and horses belonging to His Majesty or employed in His Majesty's military [1][or air-force] service and all persons in charge of or accompanying the same, when conveying any such persons as hereinbefore in this section mentioned, or when conveying baggage or stores, or when returning unladen from conveying such persons, baggage or stores,

(*j*) all carriages and horses, when moving under the orders of military [1][or air-force] authority for the purpose of being employed in His Majesty's military [1][or air-force] service,

(*k*) all animals accompanying any body of troops which are intended to be slaughtered for food or kept for any purpose connected with the provisioning of such troops, and

(*l*) all persons in charge of any carriage, horse or animal exempted under any of the foregoing clauses when accompanying the same under the circumstances mentioned in those clauses respectively,

shall be exempted from payment of any tolls—

(*i*) on embarking or disembarking, or on being shipped or landed. from or upon any landing-place, or

(*ii*) in passing along or over any turnpike or other road or bridge, or

(*iii*) on being carried by means of any ferry,

otherwise demandable by virtue of any Act, Ordinance, Regulation, order or direction of any legislature or other public authority in British India :

Provided that nothing in this section shall exempt any boats, barges or other vessels employed in conveying the said persons or property along any canal from payment of tolls in like manner as other boats, barges and vessels.

Tolls on vessels transporting troops and baggage, etc., of troops embarked or disembarked.

4. (*1*) No tolls shall be leviable by any local authority in respect of—

(*a*) any vessel employed by [2][the Central Government] solely for the transport of troops, or

(*b*) the horses, baggage or other effects of any troops embarking or disembarking at any port, or

---

1 Ins. by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).
2 Subs. by the A. O. for "the Govt.".

(Explanation-.The persons are property exempted under clauses(d),(e),(g) and (j) shall be deemed to accompany the forces,troops persons or property concerned,when the move of the former is the direct result of,or is connecte with the move of the latter irrespective of the interval of space and time between the two moves.)

(*c*) carriages belonging to His Majesty or employed in His Majesty's military [1][or air-force] service embarking or disembarking at any port.

(*2*) In respect of all such vessels or troops, their families, their horses, baggage and their effects, or any such carriages as aforesaid, the local authority concerned shall, in addition to its duties in the embarking and disembarking of the same, perform and supply all such reasonable services and accommodation as may, from time to time, be required by [2][the Central Government], and shall receive payment for all such services and accommodation on such terms and for such periods as may, from time to time, be determined by [2][the Central Government] in consultation with such local authority.

Penalty.

5. Any person who demands and receives any toll in contravention of the provisions of section 3 or section 4 shall be punishable with fine which may extend to fifty rupees.

Compensation.

6. (*1*) If any owner or lessee, or any Company, railway administration or local authority claims compensation for any loss alleged to have been incurred owing to the operation of this Act, the claim shall be submitted to the [3][Central Government].

(*2*) On receiving any such claim, the [3][Central Government] [4]* * * shall pass such order thereon as justice requires, and shall give all necessary directions for the purpose of ascertaining the facts of the case and of assessing the compensation, if any, to be paid.

Rules.

7. (*1*) The [5][Central Government] [6]* * * may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the [5][Central Government] [7]* * * may make rules[8] providing for the form of passes to be given to persons or bodies of persons or in respect of property entitled to exemption from the payment of tolls under this Act.

(*3*) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

---

1 Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

2 Subs. by the A. O. for "the Govt.".

3 Subs. by the A. O. for "L. G.".

4 The words "subject to the control of the G. G. in C." rep. by the A. O.

5 Subs. by the A. O. for "G. G. in C.".

6 The words "and the L. G., with the previous sanction of the G. G. in C.," rep. by the A. O. 1937

7 The words "or the L. G., with the previous sanction of the G. G. in C.," rep. by the A. O. 1937

8 For such rules, *see* Gen. R. & O., Vol. III, 365—367.

(*4*) All rules made under this section shall be published in the [1][Official Gazette] [2]* * * and, on such publication, shall have effect as if enacted by this Act.

8. [*Repeals.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

[*THE SCHEDULE.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

THE AMENDING ACT, 1901.

ACT No. XI OF 1901.[3]

[*25th October, 1901.*]

An Act to facilitate the citation of certain enactments and to amend [4]* * certain [5]* enactments.

WHEREAS it is expedient to facilitate the citation of the enactments specified in the First Schedule to this Act ;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the Second Schedule to this Act ;

[6]* * * * * * *

It is hereby enacted as follows :—

Title.

1. (*1*) This Act may be called the [7]* * Amending Act, 1901 [8]* * *.

Citation of certain enactments.

2. Each of the enactments specified in the first three columns of the First Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

3. [*Enactments amended.*] *Rep. partly by the Repealing Act, 1938 (I of 1938), s. 2 and Sch. and partly by the Amending Act, 1903 (I of 1903), s. 4 and Sch. III.*

4. [*Savings.*] *Rep. by the Amending Act, 1903 (I of 1903), s. 4 and Sch. III.*

1937

1 Subs. by the A. O. for "Gazette of India".

2 The words "or in the local official Gazette" rep. by the A. O. 1937

3 For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 117 ; for Proceedings in Council, *see ibid*, 1901, Pt. VI, pp. 218 and 219.

4 The words "and repeal" rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

5 The word "obsolete" rep., *ibid.*

6 The last paragraph of the preamble rep. by the Amending Act, 1903 (1 of 1903), s. 4 and Sch. III.

7 The words "Repealing and" rep., *ibid.*

8 The word "and" and sub-section (*2*) rep. by Act 10 of 1914, s. 3 and Sch. II.

(*The First Schedule.*)

THE FIRST SCHEDULE.

CITATION OF ENACTMENTS.

(*See section* 2.)

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations.	
1802	III	A Regulation for receiving, trying and deciding suits or complaints, declared cognizable in the Courts of Adalat established in the several Zillas immediately subject to the Presidency of Fort St. George.	The Madras Administration of Estates Regulation, 1802.
,,	XIX	A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice, or the collection of the public revenue, lending money to Zamindars, independent Taluqdars or other actual Proprietors of land, or dependent Taluqdars or Farmers of land, holding farms immediately of Government; or the Underfarmers or Raiyats of the several descriptions of Proprietors and Farmers of land above-mentioned, or their respective sureties.	The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802.
,,	XXV	A Regulation for declaring the proprietary right of lands to be vested in individual persons, and for defining the rights of such persons, under the permanent assessment of the land-revenue in the British territories subject to the Presidency of Fort St. George.	The Madras Permanent Settlement Regulation, 1802.
,,	XXVI	A Regulation for governing the sale and sub-division of malguzari lands in the British territories subject to the Presidency of Fort St. George.	The Madras Land Registration Regulation, 1802.
,,	XXIX	A Regulation for establishing the office of Karnam, and defining the duties of the said office, in the British territories subject to the Presidency of Fort St. George.	The Madras Karnams Regulation, 1802.
1803	I	A Regulation for defining the duties of the Board of Revenue, and for determining the extent of the powers vested in the Board of Revenue.	The Madras Board of Revenue Regulation, 1803.
,,	II	A Regulation for describing and determining the conduct to be observed by Collectors in certain cases.	The Madras Collectors Regulation, 1803.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations—contd.	
1804	V	A Regulation for constituting a Court of Wards, for declaring the powers vested in the said Court, and for defining the rules under which those powers are to be exercised.	The Madras Court of Wards Regulation, 1804.
1*	*	* * *	* *
1816	I	A Regulation for declaring the contributions hitherto paid in the Province of Tanjore on account of the Kavali Police, appropriable to the support of the new Police established or to be established, in that Province, and for regulating the collection and assessment of those contributions.	The Tanjore Police Regulation, 1816.
2*	*	* * *	* *
1816	XI	A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George.	The Madras Village-police Regulation, 1816.
,,	XII	A Regulation for authorising Collectors to refer claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary, as also certain disputes respecting the occupying, cultivating and irrigating of land to be tried and determined by Village and District Panchayats, and for prescribing the Rules under which the trial of such disputes shall be conducted and the decisions of the Panchayats carried into execution.	The Madras Village-lands Disputes Regulation, 1816.
1817	VII	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples and colleges or other public purposes, for the maintenance and repair of bridges, choultries or chattrams and other public buildings, and for the custody and disposal of escheats.	The Madras Endowments and Escheats Regulation, 1817.

1 The entry relating to the Madras State Offences Regulation, 1808 (7 of 1808), rep. by the Repealing Act, 1927 (12 of 1927), s. 2 and Sch.

2 The entry relating to the Madras Village-panchayats Regulation, 1816 (5 of 1816), rep., *ibid.*

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations—contd.	
1817	VIII	A Regulation for expediting the trial of Civil suits in which the Native officers and soldiers attached to regular Corps in the Madras Command may be parties, and for giving to them certain facilities in the maintenance and recovery of their rights, claims and interests.	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.
1819	II	A Regulation for the confinement of State Prisoners.	The Madras State Prisoners Regulation, 1819.
1821	IV	A Regulation for giving greater efficiency to the system of Police established in the provinces subordinate to the Presidency of Fort St. George.	The Madras Village-police Regulation, 1821.
1822	IV	A Regulation declaring the true intent and meaning of Regulation XXV of 1802 so far as it relates to the rights of the actual cultivators of the soil.	The Madras Permanent Settlement (Interpretation) Regulation, 1822.
,,	VII	A Regulation for declaring that the appointment and removal of the Native Public Servants of Government shall be regulated by such orders as the Governor in Council may, from time to time, see fit to issue.	The Madras Native Public Officers Regulation, 1822.
,,	IX	A Regulation for empowering Collectors to take primary cognizance of cases of malversation in revenue affairs, for prescribing the rules to be observed in such investigations and in the recovery of money embezzled or corruptly received by Public Servants and others amenable to the Collector's jurisdiction, and for providing for the admission and trial of Appeals from the summary decisions of Collectors in such cases.	The Madras Revenue Malversation Regulation, 1822.
1823	III	A Regulation for declaring the powers of Subordinate and Assistant Collectors in the execution of the provisions of Regulation IX of 1822.	The Madras Revenue Malversation (Amendment) Regulation, 1823.
1828	VII	A Regulation for declaring the powers of Subordinate and Assistant Collectors in charge of particular divisions of districts and for facilitating proceedings under Regulation IX of 1822.	The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations—concld.	
1829	V	A Regulation for modifying section 16, Regulation III, 1802, and for declaring the legal force of Wills left by Hindus within the territories subject to the Presidency of Fort St. George to be dependent on their conformity to the Hindu Law according to the authorities prevalent in the respective Provinces under this Government.	The Madras Hindu Wills Regulation, 1829.
1830	I	A Regulation for declaring the practice of Sati or of burning or burying alive the Widows of Hindus illegal, and punishable by the Criminal Courts.	The Madras Sati Regulation, 1830.
1831	V	A Regulation to modify and amend the provisions in force for the recovery of the penalties prescribed for certain breaches of the stamp laws.	The Madras Stamp Penalties Regulation, 1831.
"	VI	A Regulation to prevent the misappropriation of the emoluments annexed by the State to hereditary village and other offices in the Revenue and Police Departments, and to maintain the due efficiency of those offices.	The Madras Hereditary Offices Regulation, 1831.
"	X	A Regulation to prohibit the sale of estates belonging to Minors not under the charge of the Court of Wards, and to extend the provisions of section 20, Regulation V, 1804, to property of every description not subject to the jurisdiction of that Court.	The Madras Sale of Minors' Estates Regulation, 1831.
1832	III	A Regulation for limiting the period within which plaints or appeals preferred under section 16, Regulation IX, 1822, shall be admissible to the Courts of Adalat.	The Madras Revenue Malversation (Amendment) Regulation, 1832.
		Part II.—Acts of the Governor General in Council.	
1837	XXXVI	An Act to extend the application of Madras Regulations IX of 1822 and VII of 1828.	The Madras Public Property Malversation Act, 1837.
1839	VII	An Act to invest Tahsildars within the Presidency of Fort St. George with certain powers in respect of property distrained for arrears of rent or revenue.	The Madras Rent and Revenue Sales Act, 1839.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part II.—Acts of the Governor General in Council—contd.	
1839	XXIV	An Act for the administration of justice and collection of the Revenue in certain parts of the Districts of Ganjam and Vizagapatam.	The Ganjam and Vizagapatam Act, 1839.
1840	VIII	An Act concerning the signing of awards by the members of Panchayats.	The Madras Panchayats Act, 1840.
1*	*	* * *	* *
1849	X	An Act for appointing a Commissioner of Revenue at Madras.	The Madras Revenue Commissioner Act, 1849.
1851	XII	An Act for securing the land-revenue of Madras.	The Madras City Land-revenue Act, 1851.
1854	XXIV	An Act to prohibit the possession of certain offensive weapons in Malabar.	The Malabar War-knives Act, 1854.
2*	*	* * *	* *
1857	VII	An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St.George.	The Madras Uncovenanted Officers Act, 1857.
3*	*	* * *	* *
1858	I	An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.	The Madras Compulsory Labour Act, 1858.
1859	XX	An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George.	The Moplah Outrages Act, 1859.
,,	XXIV	An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.	The Madras District Police Act, 1859.
4*	*	* * *	* *

1 The entry relating to the Madras Inland Customs Act, 1844 (6 of 1844), rep. by the Land Customs (Amendment) Act, 1937 (3 of 1937), s. 6 and Sch.

2 The entry relating to the Madras Minors Act, 1855 (21 of 1855) rep. by the Repealing Act, 1927 (12 of 1927), s. 2 and Sch.

3 The entry relating to the Madras University Act, 1857 (27 of 1857), rep., *ibid.*

4 The entry relating to the Madras Irrigation and Canal Company Act, 1865 (30 of 1865) rep., *ibid.*

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part II.—Acts of the Governor General in Council—concld.	
1877	XIX	An Act to enable certain District Judges to suspend and remove certain ministerial officers and for other purposes.	The Madras Civil Courts (Amendment) Act, 1877.
1882	XXI	An Act to remove doubts regarding the Madras Forest Act, 1882.	The Madras Forest (Validation) Act, 1882.
1884	II	An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.	The Madras Partition-deeds (Validation) Act, 1884.
1889	V	An Act to abolish the office of Coroner of Madras.	The Coroners (Madras) Act, 1889.
		Part III.—Acts of the Governor of Fort St. George in Council.	
1862	IV	An Act to exempt enfranchised inams from the operation of Regulation IV of 1831 and Acts XXXI of 1836 and XXIII of 1838.	The Madras Enfranchised Inams Act, 1862.
1864	II	An Act to consolidate the laws for the recovery of Arrears of Revenue in the Madras Presidency.	The Madras Revenue Recovery Act, 1864.
1865	I	An Act to provide for the alteration of the Limits of Districts or Zilas in the Madras Presidency.	The Madras District Limits Act, 1865.
"	V	An Act to amend Act XXIV of 1859 ..	The Madras District Police (Amendment) Act, 1865.
"	VI	An Act to enable the Governor in Council to direct and prescribe what official seals Collectors, Magistrates and other public officers shall have and use.	The Madras Official Seals Act, 1865.
"	VII	An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.	The Madras Irrigation Cess Act, 1865.
1*	*	* * *	* *
1866	II	An Act for the prevention of the spread of disease among Cattle in the Madras Presidency.	The Madras Cattle-disease Act, 1866.

1 The entry relating to Mad. Act 8 of 1865 rep. by the Repealing Act, 1927 (12 of 1927), s. 2 and Sch.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part III.—Acts of the Governor of Fort St. George in Council—contd.	
1866	IV	An Act to exempt enfranchised Village or other Service Inams, whether Revenue or Police, from the operation of Regulation VI of 1831.	The Madras Enfranchised Inams Act, 1866.
1*	*	* * *	* *
1867	VI	An Act to amend Act XII of 1851 (*an Act for securing the Land-revenue of Madras*).	The Madras City Land-revenue (Amendment) Act, 1867.
1869	III	An Act to empower Revenue-officers to summon persons to attend at their Kachahris for the settlement of matters connected with Revenue administration.	The Madras Revenue Summonses Act, 1869.
,,	VIII	An Act to prevent doubts as to the true intent and meaning of certain words used in the title-deeds of inams heretofore furnished to inam-holders by the Inam Commissioner of the Madras Presidency, and to declare the true intent and meaning of Madras Acts IV of 1862 and IV of 1866.	The Madras Inams Act, 1869.
2*	*	* * *	* *
1873	I	An Act to prevent the indiscriminate destruction of Wild Elephants.	The Madras Wild Elephants' Preservation Act, 1873.
1876	I	An Act to make better provision for the separate assessment of alienated portions of permanently settled estates.	The Madras Land-revenue Assessment Act, 1876.
1878	VII	An Act to provide for the payment from Municipal Funds of a portion of the cost of the Police Force employed in the City of Madras and in all Municipal Towns within the Presidency of Fort St. George.	The Madras Municipal Police Act, 1878.
1879	I	An Act to amend Madras Act II of 1866 (the Cattle-disease Prevention Act).	The Madras Cattle-disease (Amendment) Act, 1879.
1884	III	The Madras Revenue Recovery Act Amendment Act.	The Madras Revenue Recovery (Amendment) Act, 1884.

1 The entry relating to Mad. Act 5 of 1866 rep. by the Repealing Act, 1927 (12 of 1927), s. 2 and Sch.

2 The entries relating to Mad. Acts 2 and 7 of 1871 rep., *ibid.*

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part III.—Acts of the Governor of Fort St. George in Council—contd.	
1*	*	* * *	* *
1885	II	An Act to amend the Madras Rivers Conservancy Act, 1884.	The Madras Rivers Conservancy (Amendment) Act, 1885.
2*	*	* * *	* *
3*	*	* * *	* *
4*	*	* * *	* *
1893	V	An Act for facilitating enquiries into matters connected with the administration of the Revenue and into the conduct of Public Servants.	The Madras Revenue Enquiries Act, 1893.
1894	I	An Act to provide further for the conduct of business by the Board of Revenue.	The Madras Board of Revenue Act, 1894.
1895	II	An Act to amend Madras Act II of 1890.	The Madras Canals and Public Ferries (Amendment) Act, 1895.
1896	I	An Act to limit the local extent of the Madras Rent Recovery Act, VIII of 1865.	The Madras Rent Recovery (Amendment) Act, 1896.
,,	II	An Act to amend the Madras General Clauses Act, I of 1891.	The Madras General Clauses (Amendment) Act, 1896.
1897	I	An Act to amend the Madras Revenue Recovery Act, II of 1864.	The Madras Revenue Recovery (Amendment) Act, 1897.
,,	II	An Act to amend Madras Act No. III of 1895 (the Madras Hereditary Village-offices Act, 1895).	The Madras Hereditary Village-offices (Amendment) Act, 1897.
1898	I	An Act to amend the Malabar Marriage Act, 1896.	The Malabar Marriage (Amendment) Act, 1898.

1 The entry relating to Mad. Act 7 of 1884 rep. by the Madras City Municipal Act, 1904 (Mad. 3 of 1904).

2 The entries relating to Mad. Acts 3 of 1886, 3 of 1890 and 1 of 1892 rep. by the Repealing Act, 1927 (12 of 1927), s. 2 and Sch.

3 The entry relating to Mad. Act 2 of 1892 rep. by Madras Act 3 of 1904.

4 The entry relating to the Madras Inland Customs (Amendment) Act, 1893 (2 of 1893), rep. by the Land Customs (Amendment) Act, 1937 (3 of 1937), s. 6 and Sch.

THE FIRST SCHEDULE—*concld.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part III.—Acts of the Governor of Fort St. George in Council—concld.	
1*	*	* * *	* *
1898	III	An Act to amend the Madras City Police Act, 1888.	The Madras City Police (Amendment) Act, 1898.
2*	*	* * *	* *
3*	*	* * *	* *
1899	IV	An Act to amend Madras Regulation V of 1884.	The Madras Court of Wards (Amendment) Act, 1899.
4*	*	* * *	* *
1900	IV	An Act to amend the Madras Proprietary Estates' Village Service Act, 1894, and the Madras Survey and Boundaries Act, 1897.	The Madras Proprietary Estates and Survey (Amendment) Act, 1900.
,,	V	An Act to amend Madras Act VII of 1865.	The Madras Irrigation Cess (Amendment) Act, 1900.

THE SECOND SCHEDULE.—[*Enactments amended.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE IMPERIAL LIBRARY (INDENTURES VALIDATION) ACT, 1902.

ACT No. I OF 1902.[5]

[*31st January, 1902.*]

An Act to confirm and validate certain indentures made between the Agricultural and Horticultural Society of India and the Calcutta Public Library, respectively, and the Secretary of State for India in Council.

WHEREAS an indenture, a copy whereof is set forth in the first schedule, was expressed to be made, on the tenth day of April, 1901, between

[1] The entry relating to Mad. Act 2 of 1898 rep. by the Repealing Act, 1927 (12 of 1927).
[2] The entry relating to Mad. Act 1 of 1899 rep., *ibid.*
[3] The entry relating to Mad. Act 2 of 1899 rep. by the Madras City Municipal Act, 1904 (Mad. 3 of 1904).
[4] The entry relating to Mad. Act 3 of 1900 rep. by the Repealing Act, 1927 (12 of 1927).
[5] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 8; and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 2, 3 and 10.

the Agricultural and Horticultural Society of India, of the first part, the president and members for the time being of the said Agricultural and Horticultural Society, of the second part, and the Secretary of State for India in Council, of the third part ;

AND WHEREAS an indenture, a copy whereof is set forth in the second schedule, was expressed to be made, on the twentieth day of December, 1901, between the Calcutta Public Library, of the first part, the vice-president for the time being of the said Calcutta Public Library, of the second part, the members for the time being of the council of the said Calcutta Public Library, of the third part, and the said Secretary of State in Council, of the fourth part ;

AND WHEREAS the said indentures respectively purport to grant and transfer, for consideration, unto the said Secretary of State in Council absolutely the land described therein, or in the schedules thereto, respectively, and the building, with out-buildings, known as the Metcalfe Hall, situate in the town of Calcutta in the territories administered by the Lieutenant-Governor of Bengal ;

AND WHEREAS the said Agricultural and Horticultural Society and Calcutta Public Library have been registered as societies under the Societies Registration Act, 1860 ; XXI of 1860.

AND WHEREAS it is expedient that any doubt as to the legal effect of the said indentures should be removed, and that the said indentures should be confirmed and declared to be valid and binding in law for all the intents and purposes expressed therein respectively, and especially for the purpose of vesting the said property in His Majesty absolutely so as to be made available for the purposes of an Imperial Library to be established in the said town of Calcutta, or for any other use or purpose to or for which the same may be, or may be intended to be, hereafter applied ;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Imperial Library (Indentures Validation) Act, 1902.

Validation of indentures set forth in schedules.

2. (*1*) Notwithstanding anything contained in the Societies Registration Act, 1860, or in any other enactment or rule of law for the time being XXI of 1860. in force, the property expressed or intended to be transferred to the Secretary of State for India in Council by the indentures, whereof copies are set forth in the first and second schedules, respectively, to this Act, shall be deemed and taken to have been so transferred absolutely as and from the dates of the said indentures respectively ; and the said several indentures are hereby declared valid and operative as from the said dates respectively.

(*2*) The said indentures shall be, and from the dates thereof respectively shall be deemed to have been, valid and binding for all purposes whatsoever, and as against all persons whomsoever claiming any right to, or any interest in, or any relief respecting the property, or any portion thereof,

expressed or intended to be transferred thereby respectively, either as members of the Agricultural and Horticultural Society of India or of the Calcutta Public Library, or otherwise howsoever.

Property to vest absolutely in His Majesty.

3. Notwithstanding anything herein contained, the property expressed or intended to be transferred to the Secretary of State for India in Council by the said indentures respectively shall be, and from the dates thereof respectively shall be deemed to have been, vested in His Majesty absolutely and free from all incumbrances, trusts, powers, equities or obligations of any kind or nature whatsoever.

Certain receipts to discharge the Secretary of State in Council from liability.

4. (*1*) A receipt signed by the person acting for the time being as the president of the said Agricultural and Horticultural Society of India for any money payable by the Secretary of State for India in Council to the said Agricultural and Horticultural Society under the indenture set forth in the first schedule, shall effectually discharge the said Secretary of State in Council as regards the money therein expressed to be received, and from all liability in respect thereof ; and the said Secretary of State in Council shall not be concerned to see to the application, or be responsible for any loss or misapplication, of the same.

(*2*) A receipt signed by the person acting for the time being as the vice-president of the said Calcutta Public Library for any money payable by the Secretary of State for India in Council to the said Calcutta Public Library under the indenture set forth in the second schedule, shall effectually discharge the said Secretary of State in Council as regards the money therein expressed to be received, and from all liability in respect thereof ; and the said Secretary of State in Council shall not be concerned to see to the application, or be responsible for any loss or misapplication, of the same.

THE FIRST SCHEDULE.

THIS INDENTURE made the tenth day of April one thousand nine hundred and one BETWEEN THE AGRICULTURAL AND HORTICULTURAL SOCIETY OF INDIA a Society registered under the provisions of Act XXI of 1860 of the Legislative Council of India (hereinafter called the said Society) of the first part, *Henry Cooper Eggar* of 1, Alipore Lane in the Suburbs of Calcutta Solicitor President of the said Society *David Prain M.A. M.B. F.R.S.C.* Superintendent of the Royal Botanic Garden Sibpur in the District of Howrah and a Major in the Indian Medical Service the Honourable *Francis Alexander Slacke B.A. J.P.* Member of the Indian Civil Service Secretary to the Government of Bengal in the General Revenue and Statistical Department *Robert George Girard* of Ghoosery in the District of Howrah Collector of Income Tax Bengal and *Joygobind Law C.I.E.*, of 24 Sukeas Street Calcutta Zemindar the four Vice-Presidents of the said Society, *His Grace the Most Reverend Doctor Paul Count Goethals S. J.* Archbishop of Calcutta the Palace 12 Park Street Calcutta *Protapa Chundra Ghosha* of 26 Baranasi Ghose's Street Calcutta Zemindar *Francis Granville Clarke* of 4 Alipore Lane Calcutta Agent *Rajah Peary Mohun Mookerjee C.S.I.*, of Utterpara in the District of Hooghly Zemindar *Edward Jeremiah King* of 9 Victoria Terrace Calcutta Broker *William Graham* of Garden Reach in the Suburbs of Calcutta

(*The First Schedule.*)

Barrister-at-Law *Prosonno Coomar Banerjee Rai Bahadur* of Ariadah in the District of the Twenty-four-Pergunnahs Zemindar *John Ross Bertram* of 101 Clive Street Calcutta Merchant *William Dickson Cruickshank* of 2 Esplanade West Calcutta Banker *Owen Brochwel Griffiths* of 3 Mangoe Lane Calcutta Broker *Kailas Chundra Basu Rai Bahadur C.I.E.* of 72 Sookeas Street Calcutta Doctor of Medicine and *George Burgh McNair* of I Hastings Street Calcutta Solicitor, all Members of the said Society of the second part, and *The Secretary of State for India in Council* (hereinafter called the Secretary of State) of the third part.

WHEREAS in the year one thousand eight hundred and forty at meetings of a Committee of subscribers to a fund raised with the object of perpetuating the name and administration of Sir Charles Theophilus Metcalfe Baronet (afterwards created Baron Metcalfe) Governor General of India to which fund the Agricultural and Horticultural Society of India as then constituted and the Society known as the Calcutta Public Library were contributors, it was resolved to erect a building in Calcutta of two storeys which should be devoted as to the lower storey thereof to the purposes of the said Agricultural and Horticultural Society of India and as to the upper storey thereof to the purposes of the Calcutta Public Library AND WHEREAS application having been made by the said Committee of subscribers to the Government of India for a suitable site for the building to be erected as aforesaid the piece or parcel of land in the schedule hereto particularly described was in the year one thousand eight hundred and forty made over by the Government of India to the said Agricultural and Horticultural Society of India and the said Calcutta Public Library subject only to the conditions following namely that the building to be erected thereon with the object and for the purposes aforesaid should be ornamental and substantial and that on failure on the part of the said Agricultural and Horticultural Society of India and the Calcutta Public Library to keep the said building in repair the said piece or parcel of land should revert to the Government of India or at least that the said building should not without the consent of the Government of India be alienable to other purposes than for the use of the said Agricultural and Horticultural Society of India and the said Calcutta Public Library AND WHEREAS thereafter by application of the balance of the said fund in the hands of the said Committee of subscribers augmented by further substantial contributions by the said Agricultural and Horticultural Society of India and the said Calcutta Public Library an ornamental and substantial building suitable for the purposes of the said Agricultural and Horticultural Society of India and the said Calcutta Public Library was erected on the said piece or parcel of land which building on the completion thereof was designated and has ever since been known as the Metcalfe Hall AND WHEREAS so far as is known no conveyance or other assurance of the said piece or parcel of land was at any time executed to or in favour of the said Agricultural and Horticultural Society of India and the said Calcutta Public Library AND WHEREAS on the ninth day of September one thousand eight hundred and sixty-one the said Agricultural and Horticultural Society of India was registered under the provisions of Act XXI of 1860 of the Legislative Council of India and the said Society so registered is the said Society party hereto of the first part AND WHEREAS the said Society and the said Calcutta Public Library as at present constituted are possessed of and entitled in perpetuity to the said piece or parcel of land and the aforesaid building known as the Metcalfe Hall and other the out-buildings erected and being thereon as tenants in common in equal shares AND WHEREAS the said persons parties hereto of the second part are the present Council and governing body of the said Society AND WHEREAS the Secretary of State being desirous of acquiring the said Metcalfe Hall and other the land and buildings aforesaid an offer was recently made by the President of the said Society

to and accepted by the Government of Bengal on behalf of the Secretary of State for the sale and transfer of the undivided moiety or half part or share of the said Society of and in the said Metcalfe Hall and land and buildings aforesaid to the Secretary of State for the price or sum of Rupees twenty-five thousand in cash and a permanent annuity of Rupees six thousand per annum such offer and acceptance being made subject to the approval and confirmation thereof by the said Society in general meeting AND WHEREAS at general meetings of the said Society duly convened and held in accordance with the bye-laws and regulations of the said Society on the fourteenth day of March one thousand and nine hundred and the twenty-seventh day of April one thousand and nine hundred the following resolution was passed namely that the conditional offer made by the President to and accepted by the Government of Bengal for the transfer to the Government of India of the right title and interest of this Society in the Metcalfe Hall property in consideration of a permanent annuity of Rupees six thousand unfettered by any conditions affecting its enjoyment and a sum of Rupees twenty-five thousand in cash be and is hereby adopted and confirmed and that the President be and is hereby authorised to carry such transfer into effect NOW THIS INDENTURE WITNESSETH that in consideration of the sum of Rupees twenty-five thousand on or before the execution of these presents paid by the Secretary of State to the said Society (the receipt whereof the said Society and the said persons parties hereto of the second part hereinafter called the said governing body do hereby respectively acknowledge and therefrom do hereby respectively release the Secretary of State his successors in office and assigns) and also in consideration of the permanent annuity or clear yearly sum of Rupees six thousand to be henceforth paid by the Secretary of State his successors in office and assigns to the said Society or its assigns at the times and in the manner hereinafter mentioned the said Society and the said governing body respectively do hereby grant and transfer unto the Secretary of State ALL that the one equal undivided moiety or half part or share of the said Society of and in all that piece or parcel of land more particularly described in the schedule hereunder written and the building known as the Metcalfe Hall and all the other out-buildings erected and being thereon AND ALSO of and in all ways passages drains rights privileges easements and appurtenances whatsoever to the said piece or parcel of land and buildings or any of them or any part thereof belonging or with the same now or heretofore held and enjoyed or reputed or known to be part or parcel thereof or appurtenant thereto AND all the estate right title and interest claim and demand of the said Society into or upon the said premises or any part thereof TO HAVE AND TO HOLD the said one equal undivided moiety or half part or share and all other the estate right title and interest of the said Society of and in the said piece or parcel of land and buildings and all other the premises hereinbefore expressed to be hereby granted and transferred unto and to the use of the Secretary of State his successors in office and assigns for ever AND the said Society and the said governing body for and on behalf of the said Society (but not so as to bind themselves personally) do hereby respectively covenant with the Secretary of State his successors in office and assigns that notwithstanding anything by the said Society at any time done or knowingly suffered the said Society now have full power in manner aforesaid to grant and transfer the said one equal undivided moiety or half part or share of and in the said piece or parcel of land buildings and premises hereinbefore expressed to be hereby granted and transferred unto and to the use of the Secretary of State his successors in office and assigns AND that the said one equal undivided moiety or half part or share of and in the said piece or parcel of land buildings and premises and every part thereof shall remain and be to the use of the Secretary of State his successors in office and assigns in the manner aforesaid and shall be quietly entered into and upon and held and enjoyed without any interruption claim or demand by the

said Society or any person or persons claiming under or in trust for them AND that discharged from or otherwise by the said Society sufficiently indemnified against all incumbrances claims and demands created by the said Society or any person or persons claiming or to claim through under or in trust for the said Society AND that the said Society and every person claiming through under or in trust for them will at all times at the cost of the Secretary of State his successors in office or assigns execute and do all such assurances and things for further or more effectually assuring the said one equal undivided moiety or half part or share of and in the said piece or parcel of land buildings and premises to the use of the Secretary of State his successors in office and assigns as shall be reasonably required AND the Secretary of State doth hereby for himself and his successors in office covenant with the said Society and their assigns that he the said Secretary of State and his successors in office will henceforth and for ever pay to the said Society or their assigns an annuity or yearly sum of Rupees six thousand on the first day of April in every year and will make the first of such payments on the first day of April one thousand nine hundred and one and will make all the said payments without any deduction.

The schedule above referred to.

ALL that piece or parcel of land containing an area of 1 biggah 2 cottahs and 2-2|3 chittacks or thereabouts situate and being No. 12 Strand Road in the Town of Calcutta and forming a portion of Holding No. 20 Block No. 23 in the South Division of the said Town and on which said piece or parcel of land or on some part thereof a building known as the Metcalfe Hall has been erected and which said piece or parcel of land and premises are bounded on the North by Hare Street on the East by the messuage godowns and premises known as No. 2 Church Lane belonging to Doorga Churn Law and Chundy Churn Law in the occupation of Messrs. Ralli Brothers on the South partly by the premises No. 11 Strand Road occupied by the Government Stationery Office and partly by the premises Nos. 3, 4 and 5 Church Lane in the occupation of the Government Jail Depot and Stationery Office and on the West by the Strand Road.

IN WITNESS whereof the said Society have subscribed their name by their President and Secretary and the said persons hereto of the second part have hereunto set their hands and seals and the Secretary to the Government of India in the Home Department acting for and on behalf of the Secretary of State hath hereunto set his hand and seal the day and year first above written.

(*Here follow signatures of parties and witnesses : Not re-printed.*)

THE SECOND SCHEDULE.

THIS INDENTURE made the twentieth day of December one thousand nine hundred and one BETWEEN THE CALCUTTA PUBLIC LIBRARY a Society registered under the provisions of Act XXI of 1860 of the Legislative Council of India (hereinafter called the said Society) of the first part, *Maharajah Bahadur Sir Narendra Krishna K.C.I.E.* of No. 2 Raja Nubokissen Street Calcutta Zemindar the Vice-President of the said Society and as such the continuing trustee of the property of the said Society under the said Act and the Rules of the said Society of the second part, the said *Maharajah Bahadur Sir Narendra Krishna K.C.I.E.* as such Vice-President as aforesaid *Charles Elvin Dissent* of 61 Wellesley Street Calcutta Government Pensioner *Jogen Chunder Dutt* of 171 Manicktollah Street Calcutta Attorney-at-law and *Kali Churn Pahi* of No. 2 Jagadish Nath Roy's Lane Calcutta Vakil who collectively constitute the present Council of the said Society of the third part and *the Secretary*

(*The Second Schedule.*)

of State for India in Council (hereinafter called the Secretary of State) of the fourth part WHEREAS in the year one thousand eight hundred and forty at meetings of a Committee of subscribers to a fund raised with the object of perpetuating the name and administration of Sir Charles Theophilus Metcalfe Baronet (afterwards created Baron Metcalfe) Governor General of India to which fund the Calcutta Public Library as then constituted and a Society known as the Agricultural and Horticultural Society of India were contributors it was resolved to erect a building in Calcutta of two stories which should be devoted as to the lower storey thereof to the purposes of the said Agricultural and Horticultural Society of India and as to the upper storey thereof to the purposes of the Calcutta Public Library AND WHEREAS application having been made by the said committee of subscribers to the Government of India for a suitable site for the building to be erected as aforesaid the piece or parcel of land in the second Schedule hereto particularly described was in the year one thousand eight hundred and forty made over by the Government of India to the said Calcutta Public Library and the said Agricultural and Horticultural Society of India subject only to the conditions following namely that the building to be erected thereon with the object and for the purposes aforesaid should be ornamental and substantial and that on failure on the part of the said Calcutta Public Library and Agricultural and Horticultural Society of India to keep the said building in repair the said piece or parcel of land should revert to the Government of India or at least that the said building should not without the consent of the Government of India be alienable to other purposes than for the use of the said Calcutta Public Library and the said Agricultural and Horticultural Society of India AND WHEREAS thereafter by the application of the balance of the said fund in the hands of the said committee of subscribers augmented by further substantial contributions by the said Calcutta Public Library and the said Agricultural and Horticultural Society of India an ornamental and substantial building suitable for the purposes of the said Calcutta Public Library and the said Agricultural and Horticultural Society of India was erected on the said piece or parcel of land which building on the completion thereof was called and has ever since been known as "The Metcalfe Hall" AND WHEREAS so far as is known no conveyance or other assurance of the said piece or parcel of land was at any time executed to or in favour of the said Calcutta Public Library and the said Agricultural and Horticultural Society of India AND WHEREAS on the twenty-third day of August one thousand eight hundred and seventy-one the said Calcutta Public Library was registered under the provisions of Act XXI of 1860 of the Governor General in Council AND WHEREAS the said Secretary of State recently purchased from the Agricultural and Horticultural Society of India the interest of that Society in the said piece or parcel of land and the aforesaid building known as the Metcalfe Hall AND WHEREAS the said Society party hereto and the said Agricultural and Horticultural Society of India until the said purchase by the Secretary of State were possessed of and entitled in perpetuity to the said piece or parcel of land and the aforesaid building known as The Metcalfe Hall and other the out-buildings erected and being thereon as tenants in common in equal shares AND WHEREAS by the Rules of the said Society party hereto it was in effect provided that any person who at the date of the making of the said Rules should be possessed of one or more Original shares in the Society (shares which came into existence prior to the end of the year one thousand eight hundred and forty-nine) or who at the date of making the said Rules might have become or should thereafter become possessed of any share or shares in the said Society should be deemed a proprietor of the said Society AND WHEREAS the several persons named and described in the first Schedule to these presents are the present proprietors of the said Society AND WHEREAS by the said Rules it was also provided that the property of the said

Society should be vested in Trustees for the benefit of the proprietors and the rate-payers of Calcutta represented by the Corporation of Calcutta as subscribers to the said Society and that the President and Vice-President for the time being should be such Trustees AND WHEREAS in accordance with the Rules of the said Society and until such time as the said Corporation of Calcutta withdrew their subscription to the said Society (as sometime since happened) the President of the said Society was nominated by the said Corporation and the Vice-President of the said Society was from time to time nominated by the said proprietors and on such nomination the said Officers were elected by the Council of the said Society in annual general meeting AND WHEREAS since the withdrawal by the said Corporation of Calcutta of their subscription to the said Society there has been no nomination and election of President of the said Society and the office of President has been and is now still vacant and the present Vice-President of the said Society party hereto of the second part is now the sole continuing trustee of the property of the said Society AND WHEREAS it was by the said Rules further provided that the management of the said Society should be entrusted to a Council consisting of twelve members of whom six should be elected by the said Corporation of Calcutta and the remaining six should be elected from amongst the said proprietors and the subscribers to the said Society any three of such members of Council to form a quorum AND WHEREAS since the withdrawal of the said Corporation of Calcutta of their subscription to the said Society as aforesaid the full number of members of the Council of the said Society has not been maintained and the persons parties hereto of the third part are the present members of the said Council AND WHEREAS the Government of India being desirous of forming an Imperial Library and for the purposes thereof of acquiring the said undivided moiety or half part or share of the said Society in the said Metcalfe Hall and land and buildings and also the books and library shelves belonging to the said Society in the said Metcalfe Hall the Government of Bengal on behalf of the Government of India a short time since accepted an offer made by the said parties hereto of the third part on behalf of the said Society for the sale and transfer to the Secretary of State of the said immoveable and moveable property of the said Society in consideration of the payment by the Government of India to the parties hereto of the third part of the sum of Rupees twenty-eight thousand and five hundred (being at the rate of Rupees five hundred for each of the fifty-seven proprietors shares in the said Society) for distribution amongst the several persons proprietors of the said Society named and described in the First Schedule to these presents or the heirs executors administrators or assigns of such of the said persons as are named and described in the first and second parts of the said Schedule in the proportions in the said Schedule mentioned.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of Rupees twenty-eight thousand and five hundred on or before the execution of these presents paid by the Government of India to the said persons parties hereto of the third part the payment and receipt whereof in manner aforesaid the said parties do hereby respectively acknowledge and therefrom do hereby respectively release the Secretary of State his successors in Office and Assigns the said Society and the said parties hereto of the second and third parts do hereby grant and transfer unto the Secretary of State his Successors in Office and Assigns All that the one equal undivided moiety or half part or share of the said Society of and in all that piece or parcel of land more particularly described in the second Schedule hereunder written and the building standing and being thereon or on some part thereof and known as the Metcalfe Hall and all other the out-buildings erected and being thereon AND also of and in all ways paths passages drains rights privileges easements and appurtenances whatsoever to the said piece or parcel of land and buildings or any of them or any

part thereof belonging or with the same now or heretofore held and enjoyed or reputed or known to be part or parcel thereof or appurtenant thereto AND all the estate right title interest claim and demand of the said Society and the said parties hereto of the second and third parts into or upon the said premises or any part thereof TO HAVE AND TO HOLD the said one equal undivided moiety or half part or share and all other the estate right title and interest of the said Society of and in the said piece or parcel of land and buildings and all other the premises hereinbefore expressed to be hereby granted and transferred unto and to the use of the Secretary of State his Successors in Office and Assigns forever AND THIS INDENTURE FURTHER WITNESSETH that for the consideration aforesaid the said Society and the said parties hereto of the second and third parts do hereby assign and transfer unto the Secretary of State his Successors in Office and Assigns ALL and singular the books and library shelves belonging to the said Society in and upon the premises hereinbefore expressed to be granted and transferred AND all the right title and interest of the said Society to and in the same TO HAVE HOLD receive and take the said premises hereby assigned and transferred or expressed so to be unto the Secretary of State his Successors in Office and Assigns absolutely AND the said Society and the said parties hereto of the second and third parts for and on behalf of the said Society (but not so as to bind themselves personally) do hereby respectively covenant with the Secretary of State his Successors in Office and Assigns that notwithstanding anything by the said Society at any time done or knowingly suffered the said Society now have full power in manner aforesaid to grant and transfer the said one equal undivided moiety or half part or share of and in the said piece or parcel of land hereditaments and premises hereinbefore expressed to be hereby granted and transferred unto and to the use of the Secretary of State his Successors in Office and Assigns and to assign and transfer the said books and premises hereinbefore expressed to be hereby assigned and transferred unto the Secretary of State his Successors in Office and Assigns AND that the Secretary of State his Successors in Office and Assigns shall and may at all times hereafter peaceably and quietly possess and enjoy the said equal undivided moiety or half part or share of and in the said piece or parcel of land hereditaments and premises and every part thereof and the said books shelves and premises and receive the rents issues and profits thereof respectively without any lawful eviction interruption claim or demand whatsoever from or by the said Society or any person or persons lawfully or equitably claiming under or in trust for them AND that discharged from or otherwise by the said Society sufficiently indemnified against all incumbrances claims and demands created by the said Society or any person or persons lawfully or equitably claiming as aforesaid AND that the said Society and every person claiming through under or in trust for them will at all times at the cost of the Secretary of State his Successors in Office or Assigns execute and do all such assurances and things for further or more effectually assuring the said one equal undivided moiety or half part or share of and in the said piece or parcel of land hereditaments and premises and the said books and premises unto and to the use of the Secretary of State his Successors in Office and Assigns respectively in manner aforesaid as shall be reasonably required AND THIS INDENTURE FURTHER WITNESSETH that for the consideration aforesaid it is hereby agreed by and between the said Society and the said parties hereto of the second and third parts for and on behalf of the several persons named and described in the said First Schedule to these presents and the Secretary of State for himself and his Successors in Office and Assigns as follows :—

1. From and after the formation of the said Imperial Library each of the said several persons proprietors of the said Society named and described in the said First Schedule to these presents shall during his life-time and while he shall be in Calcutta

(*The Second Schedule.*)

have the privilege of taking out of the said Imperial Library for perusal at his place of residence such of the books hereinbefore expressed to be hereby assigned and transferred as he may from time to time require provided always that the books so taken at any one time shall not exceed six books or twelve volumes in number that all books so taken out shall be returned to the said Imperial Library within one calendar month and that the person or persons taking out any book or books in exercise of the aforesaid privilege shall be responsible for and shall make good to the Secretary of State all loss that may be sustained by reason of the non-return of any book or books or the return of any book or books in a damaged condition.

2. If after the formation of the said Imperial Library any of the books herein before expressed to be hereby assigned and transferred shall not be required by or for the purposes of the said Imperial Library notice thereof together with a list of such books as shall not be required shall be given or sent to the parties hereto of the third part and if within such time as the Government of India shall deem reasonable a majority of the persons named and described in the said First Schedule to these presents shall create and open a Library in Calcutta for the reception there of the books mentioned in the said list together with the shelves containing the same shall be made over and delivered by the Government of India free of cost to a Committee of the said persons appointed to receive the same for the purposes of the said Library subject to the express condition that the said books shall not be sold given away parted with or used for any purpose other than those of the said Library.

3. Should no library such as is referred to in the last preceding clause hereof be opened by the persons and within the time aforesaid or should such a library be opened and thereafter be disused or closed the books included in the list hereinbefore referred to but not the shelves containing the same may be distributed amongst or made over to such libraries or library in Calcutta as either upon the recommendation of the majority of the persons named and described in the said First Schedule to these presents or in their own discretion the Government of India may select and as may be willing to receive the same.

The First Schedule referred to in the foregoing Indenture.

PART I.

List of Proprietors holding transferable shares.

1.	Apcar, J. G., Esq.	Clerk of the Crown, High Court, Calcutta.
2.	Biswas, Kaliprasana, Babu	Banian, Calcutta.
3.	Chatterjee, Amarendro Nath, Babu	Vakil, High Court, Calcutta.
4.	Deb, Satya Priya, Babu	Asst., Board of Revenue, Calcutta.
5.	DePenning, G. A., Esq.	Gentleman, Calcutta.
6.	Dey, Nilmoney, Babu	Gentleman, Cossipore.
7.	Dhur, Ashutosh, Babu	Attorney-at-Law, Calcutta.
8.	Dutt, J. C., Esq., M.A., B.L.	do. do.
9.	„ Jogesh Chandra, Babu	Gentleman, Calcutta.
10.	„ Kader Nath, Babu	do do.
11.	„ Khetra Mohan, Babu	Banian, Calcutta.
12.	„ Mano Mohan, Babu, M.A., B.L.	Vakil, High Court, Calcutta.
13.	„ Satis Chandra, Babu	Gentleman, Calcutta.
14.	Ghosh, Jogendra Chandra, Babu	Zemindar, Garden Reach.
15.	„ Munindra Chandra, Babu	Gentleman, Calcutta.

(The Second Schedule.)

16. Ghosh, Nabu Krishna, Babu	Gentleman, Salkeah, Howrah.
17. Ghosha, Pratapa Chandra, Babu, B.A. ..	Gentleman, Calcutta.
18. Howe, Rivers T. L., Esq.	Asst. Controller Genl. in charge of Paper Currency Dept., Calcutta.
19. Law, Jaygobind, Babu, C. I. E. ..	Zemindar, Calcutta.
20. Martin, John, Esq.	Of the firm of Messrs. John Davies & Co., Calcutta.
21. Mitra, Prakas Chunder, Babu, L. M. S. ..	Medical Profession, Calcutta.
22. Mullick, Binod Behari, Babu	Zemindar, Calcutta.
23. Narendra Krishna, Maharajah Bahadur, Sir, K. C. I. E.	Zemindar, Calcutta.
24. Palit, Kali Churn, Babu, B. L. ..	Pleader, Police Court, Calcutta.
25. Pandit, Ram Chundra, Babu	Gentleman, Bhowanipore.
26. Ray, Ananda Mohan, Babu	Zemindar, do.
27. ,, Gobinlal, Babu	Gentleman, Calcutta.
28. Rowland, Mrs. Geo. Henry ..	Calcutta.
29. Sen, Narayan Kissen, Babu	Store-Keeper, Stamp Office, Calcutta.
30. Set, Balailal, Babu	Gentleman, Calcutta.
31. ,, Giris Chandra, Babu, M.A., B.L. ..	Attorney-at-Law, Calcutta.
32 & 33. Sircar, Mohendrolal, Dr. M. D., D. L., C. I. E. (holds 2 shares).	Medical Profession, Calcutta.
34. Sturmer, Miss Anne	Zemindar, Calcutta.
35. Tagore, Debendra Nath, Babu	do. do.
36. ,, Jagadindra Nath, Babu ..	do. do.
37. ,, Jotendra Mohun, Maharajah Bahadoor, Sir, K. C. S. I.	do. do.
38. Thomson, Walter Alex. John, Esq. ..	Chandmari Tea Estate, Nagra Kata P. O., viâ Jalpaiguri, West Dooars.
39. Woodburn, Hon'ble Sir John, K. C. S. I.	Lieutenant-Governor of Bengal.
40. Robinson, C. C., Esq.	Barrister-at-Law, Calcutta.
41. Stuart, J. N., Esq.	Of the firm of Messrs. Balmer, Lawrie & Co.
42. Westland, Sir James, K. C. S. I. ..	Late Finance Minister, India.

PART II.

Transferable shares in abeyance.

43. Basu, Dwarkanath, Babu	Gentleman,	Calcutta,	died in 1898.
44. Hollingberry, Robert Heatly, Esq. ..	do.	do.	died in 1896.
45. Mitra, Gopi Kissen, Babu	do.	do.	died in 1896.
46. ,, Romes Chundra, Sir, Kt. ..	do.	do.	died in 1899.
47. Sen, Beni Madhab, Babu	do.	do.	died in 1899.
48. Mittra, Jagganath, Babu	Assistant, Appellate Side, High Court, Calcutta, died in 1901.		

PART III.

List of Proprietors holding non-transferable shares.

49. Baker, J. W., Esq.	Of the firm of Messrs. Barry & Co., Calcutta.
50. Bonnaud, A., Esq.	Merchant, Calcutta.
51. Dissent, C. E., Esq.	Gentleman, Calcutta.

(*The Second Schedule.*)

52. Duncan, W. N., Esq. ..	..	.. Of the firm of Messrs. Stewart, Mackenzie & Co., Calcutta.
53. Ghosh, Kali Krishna, Babu	..	.. Gentleman, Bankipore, Patna.
54. Manuk, Mrs. M. ..	..	.. Calcutta.
55. Robertson, J. A., Esq.	..	.. Gentleman, Chandernagore.
56. Tagore, Kali Kissen, Babu	..	.. Zemindar, Calcutta.
57. Mitter, Jotendranath, Babu	..	.. Gentleman, Calcutta.

The Second Schedule referred to in the foregoing Indenture.

ALL that piece or parcel of land situate and being No. 12 Strand Road in the Town of Calcutta and a portion of Holding No. 20 Block No. 23 in the Southern Division containing an area of 1 bigha 2 cottahs and 2 2|3 chittacks or thereabouts whereon or on some part whereof has been erected a building known as the Metcalfe Hall and which said piece or parcel of land and premises are bounded on the North by Hare Street on the East by the messuage and godowns belonging to Doorga Churn Law and Chundy Churn Law in the occupation of Messrs. Ralli Brothers on the South by the premises occupied by the Government Stationery Office and on the West by Strand Road.

IN WITNESS whereof the said Society have subscribed their name by their Vice-President and Secretary and the said persons hereto of the second and third parts have hereunto set their hands and seals and the Secretary to the Government of India in the Home Department acting for and on behalf of the Secretary of State has hereunto set his hand and seal the day and year first above written.

(*Here follow signatures of parties and witnesses : Not re-printed.*)

THE INDIAN TRAMWAYS ACT, 1902.

ACT No. IV OF 1902.[1]

[*14th February, 1902.*]

An Act to apply the provisions of the Indian Railway Companies Act, 1895, to certain Tramway Companies.

WHEREAS by the Indian Railway Companies Act, 1895, the Railway Companies therein mentioned are authorised to pay interest on their paid-up share capital out of capital in the manner and on the conditions prescribed by the said Act ; X of 1895.

AND WHEREAS it is expedient to apply the provisions of the said Act to Companies formed for the construction of tramways not differing in structure and working from light railways ;

It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Indian Tramways Act, 1902 ; and

(*2*) It extends to ~~the whole of British India.~~

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 105 ; for Report of the Select Committee, *see ibid.*, 1902, Pt. V, p. 27 ; for Proceedings in Council, *see ibid.*, 1901, Pt. VI, p. 14 ; *ibid.*, 1902, Pt. VI, pp. 2, 6 and 21.

2. The [1][Central Government] may, by notification in the [2][Official Gazette], direct that the provisions of the Indian Railway Companies Act, 1895, in so far as the same are applicable, shall apply to any Company formed for the construction of a tramway under the Bengal Tramways Act, 1883[3], or the Indian Tramways Act, 1886, and thereupon it shall be lawful for the Tramway Company mentioned in the notification to pay interest upon its paid-up share capital out of capital in the manner and subject to the conditions prescribed by the said Indian Railway Companies Act, 1895.

Application of Act X, 1895, to Tramway Companies.

X of 1895. Ben. III of 1883. XI of 1886. X of 1895.

THE AMENDING ACT, 1903.

ACT No. I OF 1903.[4]

[*6th March, 1903.*]

An Act to facilitate the citation of certain enactments [5][and] to amend certain enactments [6]* *.

WHEREAS it is expedient to facilitate the citation of the enactments specified in the first schedule to this Act ;

AND whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act ;

[7]* * * * * * *

It is hereby enacted as follows :—

1. This Act may be called the [8]* * Amending Act, 1903.

Short title.

2. Each of the enactments described in the first three columns of the first schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Citation of certain enactments.

3. [*Amendment of certain enactments.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

4 & 5. [*Repeal of certain enactments. Savings.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

---

1 Subs. by the A. O. for "G. G. in C.".
2 Subs. by the A. O. for "Gazette of India".
3 Ben. Code.
4 For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 72 ; for Proceedings in Council, *see ibid.*, Pt. VI, pp. 6 and 15.
This Act has been declared to be in force in—
the Sonthal Parganas, by notification under s. 3 (*3*) of the Sonthal Parganas Settlement Regulation (3 of 1872), *see* Calcutta Gazette, 1904, Pt. I, p. 227 ;
the Khondmals District, by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch ; and
the Angul District, by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.
5 Ins. by the Repealing and Amending Act, 1914 (10 of 1914), s. 2 and Sch. I.
6 The words "and to repeal certain other enactments" rep. by s. 3 and Sch. II, *ibid.*
7 The third paragraph of the preamble was rep., *ibid.*
8 The words "Repealing and" rep., *ibid.*

THE FIRST SCHEDULE.

SHORT TITLES.

(See Section 2.)

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART I.—REGULATIONS OF THE BENGAL CODE.	
1793	XIX ..	A Regulation for re-enacting, with modifications, the rules passed by the Governor-General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding, or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed bádsháhi or royal; and for determining the amount of the annual assessment to be imposed on lands so held which may be adjudged or become liable to the payment of public revenue.	The Bengal Revenue-free Lands (Non-Bádsháhi Grants) Regulation, 1793.
,,	XXXVII	A Regulation for re-enacting, with modifications, the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold Altámgha, jágir and other lands exempt from the payment of public revenue, under grants termed bádsháhi or royal; and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid.	The Bengal Revenue-free Lands (Bádsháhi Grants) Regulation, 1793.
1794	III ..	A Regulation for prescribing the process by which Táhsildárs are to demand payment of arrears; and for enabling the Collectors to recover from Native officers employed under them public money or papers which they may embezzle or retain.	The Bengal Native Revenue-officers Regulation, 1794.
1795	I ..	A Regulation for fixing in perpetuity the revenue assessed on the lands in the Province of Benares; for the more general restoration of the ancient zamindars.	The Benares Permanent Settlement Regulation, 1795.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*	
1795	XV ..	A Regulation for referring certain cases to the decision of the Raja of Benares.	The Benares Family Domains Regulation, 1795.
,,	XXVII	A Regulation declaratory of certain reservations made by Government, and of rights preserved to the proprietors of landed estates, under the Permanent Settlement of the land-revenue made in the Province of Benares; for allowing of the transfer or division of entire estates or portions of estates; and prescribing rules for apportioning the fixed jama on the several shares of estates which may be divided, or portions of estates which may be transferred.	The Benares Permanent Settlement (Supplemental) Regulation, 1795.
,,	XLIV ..	A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan Laws with regard to the inheritance of landed property subject to the payment of revenue to Government in the Province of Benares.	The Benares Inheritance Regulation, 1795.
1798	I ..	A Regulation to prevent fraud and injustice in conditional sales of land under deeds of bai-bil-wafa or other deeds of the same nature.	The Bengal Land (Conditional Sales) Regulation, 1798.
1800	VIII ..	A Regulation for registers of estates paying revenue, and lands held exempt from the payment of revenue.	The Bengal Revenue-free Lands Regulation, 1800.
1801	I ..	A Regulation to explain and amend the rules for the division of joint estates and allotment of the fixed assessment thereupon.	The Bengal Land-revenue Assessment Regulation, 1801.
1803	XXXIII	A Regulation for preventing the embezzlement of public money and the withholding of public papers by the Native officers of Government in the Provinces ceded by the Nawab Wazir to the Hon'ble the English East India Company.	The United Provinces Native Revenue-officers Regulation, 1803.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*	
1805	XII ..	A Regulation for the settlement and collection of the public revenue in the Zila of Cuttack, including the Parganas of Pataspur, Kamardáchor and Bográi, at present included in the Zila of Midnapur.	The Cuttack Land-revenue Regulation, 1805.
,,	XIII ..	A Regulation for the maintenance of the peace and for the support and administration of the Police in the Zila of Cuttack, and for amending certain provisions contained in Regulation IV, 1804.	The Cuttack Police Regulation, 1805.
1806	XVII ..	A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation XV, 1793; also for a general extension of the period fixed by Regulations I, 1798, and XXXIV, 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai-bilwafa, kat-kábala or other similar designation.	The Bengal Land (Redemption and Foreclosure) Regulation, 1806.
1810	XIX ..	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges and other purposes; for the maintenance and repair of bridges, saráis, kattras and other public buildings; and for the custody and disposal of nazúl property or escheats.	The Bengal Charitable Endowments Public Buildings and Escheats Regulation, 1810.
1812	V ..	A Regulation for amending some of the rules at present in force for the collection of the land-revenue.	The Bengal Land-revenue Sales Regulation, 1812.
,,	XVIII	A Regulation for explaining section 2, Regulation V, 1812, and rescinding sections 3 and 4, Regulation XLIV, 1793, and sections 3 and 4, Regulation L, 1795, and enacting other rules in lieu thereof.	The Bengal Leases and Land-revenue Regulation, 1812.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject	Short title.
		PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*	
1814	XXIX ..	A Regulation for the settlement of certain maháls in the district of Birbhum, usually denominated the Ghatwáli maháls.	The Bengal Ghatwáli Lands Regulation, 1814.
1816	V ..	A Regulation for establishing the office of Kánúngo in the district of Cuttack, the pargana of Patáspur, and the several parganas dependent on it.	The Bengal Kánúngos Regulation, 1816.
[1]*	*	* *	* *
1817	XII ..	A Regulation for securing the better administration of the office of Patwári in the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the district of Cuttack, the pargana of Patáspur and its dependencies.	The Bengal Patwáris Regulation, 1817.
,,	XX ..	A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of daroghas and other subordinate officers of police.	The Bengal Police Regulation, 1817.
1819	I ..	A Regulation for re-establishing Kánúngos and reforming the office of Patwári throughout the Province of Bengal; and for explaining and modifying certain parts of Regulation XII, 1817.	The Bengal Kánúngos and Patwáris Regulation, 1819.
	II ..	A Regulation for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made.	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819.

[1]The entry relating to the Sundarbans Regualtion, 1816 (Ben. Reg. 9 of 1816) was rep. by the Sundarbans Act, 1905 (Ben. 1 of 1905).

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*	
1821	IV ..	A Regulation for explaining the duties of an Assistant Collector of Revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of parganas or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land-revenue.	The Bengal Land-revenue (Assistant Collectors) Regulation, 1821.
[1]*	*	* *	* *
1822	VII ..	A Regulation for declaring the principles according to which the settlement of the land-revenue in the Ceded and Conquered Provinces, including Cuttack, Patáspur and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revising or superintending settlements; for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land.	The Bengal Land-revenue Settlement Regulation, 1822.
,,	XI ..	A Regulation for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice; and for making further provision for the conduct of the Revenue-officers in certain cases.	The Bengal Government Indemnity Regulation, 1822.

[1]The entry relating to the Bengal Board of Revenue Regulation, 1822 (Ben. Reg. 3 of 1822) rep. by the Bengal Board of Revenue Act, 1913 (2 of 1913), as to Bengal, and by the B. and O. Board of Revenue Act, 1913 (1 of 1913) as to B. and O.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*	
1823	VI ..	A Regulation for authorising the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo-plant, and for declaring certain principles in regard to the same.	The Bengal Indigo Contracts Regulation, 1823.
1825	IX ..	A Regulation for extending the operation of Regulation VII, 1822; for authorising the Revenue-authorities to let in farm estates under temporary leases, on the default of the málguzárs, or to hold the same khás for a term of years; for modifying and adding to the rules contained in Regulation II, 1819: and for making certain other amendments in the existing Regulations.	The Bengal Land-revenue Settlement Regulation, 1825.
,,	XIII ..	A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by Kánúngos in the Province of Behar; and to provide for the future settlement of such lands, as well as of the lands composing other resumed lákhiráj tenures, with the present occupants, when so directed by Government.	The Bengal Land-revenue Settlement (Resumed Kánúngos and Revenue-free Lands) Regulation, 1825.
,,	XIV ..	A Regulation to declare the extent of the authority possessed by the Revenue authorities, subordinate to the Governor General in Council, in the confirmation of lákhiráj tenures; to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government; and to provide for the due application of the general laws and regulations respecting lands held free of assessment to the territory	The Bengal Revenue-free Lands Regulation, 1825.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART I.—REGULATIONS OF THE BENGAL CODE—*contd.*	
		ceded by Govind Ráo to the British Government, and annexed to the zila of Bundelkhand, under the provisions of Regulation II, 1818.	
1828	III ..	A Regulation for the appointment of Special Commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue-authorities in regard to lands or rents occupied or collected by individuals, without payment of the revenue demandable by Government under the general law of the country; and for otherwise more effectually securing the realization of the public dues.	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.
,,	IV ..	A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation VII, 1822.	The Bengal Land-Revenue Settlement Regulation, 1828.
,,	VII ..	A Regulation for amending the provisions of Regulation XV, 1795, and for defining the authority of the Raja of Benares in the Mahals therein referred to.	The Benares Family Domains Regulation, 1828.
1829	I ..	A Regulation for constituting Commissioners of Revenue and Circuit; for establishing a Sadr Board of Revenue; for modifying the constitution of the Provincial Courts; for transferring to the said Commissioners the functions now exercised by the Superintendents of Police and those of the mufassal special Commissioners acting under the provisions of Regulation I, 1821; and otherwise for providing for the better administration of Civil and Criminal Justice.	The Bengal Revenue Commissioners Regulation. 1829.
1830	V ..	A Regulation relating to the cultivation and delivery of Indigo-plant.	The Bengal Indigo Contracts Regulation, 1830.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART I.—REGULATIONS OF THE BENGAL CODE—*concld.*	
1833	IX ..	A Regulation to modify certain portions of Regulation VII of 1822 and Regulation IV of 1828; to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above Regulations; for enforcing the production of the village-accounts; for the more extensive employment of Native agency in the Revenue Department; and to declare the intent of section 5, Regulation VII of 1822, touching claims to málikána.	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.
		PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.	
1836	X ..	Indigo Contracts	The Bengal Indigo Contracts Act, 1836.
,,	XXI ..	Districts	The Bengal Districts Act, 1836.
1841	XII ..	An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.	The Bengal Land-revenue Sales Act, 1841.
1847	IX ..	An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa.	The Bengal Alluvion and Diluvion Act, 1847.
1848	XX ..	An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.	The Bengal Landholders' Attendance Act, 1848.
1850	XXIII..	An Act for securing the Land-revenue of Calcutta.	The Calcutta Land-revenue Act, 1850.
[1] ,,	XLIV ..	An Act for consolidating the Board of Customs, Salt and Opium and the Sadr Board of Revenue in the Lower Provinces of Bengal.	The Bengal Board of Revenue Act, 1850.

[1]This Act has been rep., in Bengal by Ben. Act 2 of 1913, in B. and O. by B. and O. Act 1 of 1913 and in Assam by Reg. 1 of 1886.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title
		PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*	
1855	XXXII	An Act relating to Embankments	The Bengal Embankment Act, 1855.
,,	XXXVII	An Act to remove from the operation of the General Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.	The Sonthal Parganas Act, 1855.
1856	XVIII	An Act relating to the administration of the public revenues in the Town of Calcutta.	The Calcutta Land-revenue Act, 1856.
,,	XX ..	An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.	The Bengal Chaukidari Act, 1856.
[1] ,,	XXII ..	An Act for establishing a toll on boats and timber passing through the Karatoya river in the district of Bogra.	The Karatoya Tolls Act, 1856.
1857	X ..	An Act to amend Act XXXVII of 1855.	The Sonthal Parganas Act, 1857.
,,	XIII ..	An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.	The Opium Act, 1857.
,,	XXI ..	An Act to make better provision for the order and good government of the station of Howrah.	The Howrah Offences Act, 1857.
1858	XXXI	An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.	The Bengal Alluvial Land Settlement Act, 1858.
1859	V ..	An Act to empower the holders of ghátwáli lands in the district of Birbhum to grant leases extending beyond the period of their own possession.	The Bengal Ghátwáli Lands Act, 1859.

1 This Act has been rep. by Ben. Act 1 of 1914.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*	
1859	X ..	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The Bengal Rent Act, 1859.
,,	XI ..	An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.	The Bengal Land-revenue Sales Act, 1859.
,,	XII ..	An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.	The Calcutta Pilots Act, 1859.
1867	XIX ..	An Act to make further provision for the administration of justice in the district of Darjeeling.	The Darjeeling (High Court's Jurisdiction) Act, 1867.
,,	XXIII..	An Act for the suppression of murderous outrages in certain districts of the Punjab.	The Punjab Murderous Outrages Act, 1867.
1871	XXII ..	An Act to authorise the extension of the Chaukidari Act to places where there is no Jamadar of Police.	The Bengal Chaukidari (Amendment) Act, 1871.
[1]*	*	* * *	* * *
1877	IX ..	An Act to revive and amend Act No. XXIII of 1867.	The Punjab Murderous Outrages (Amendment) Act, 1877.
[2]*	*	* * *	* * *
1881	VII ..	An Act to amend Bengal Act No. IX of 1880 (the Cess Act, 1880).	The Bengal Cess (Amendment No. 1) Act, 1881.
1883	VI ..	An Act to give power to arrest persons whose evidence is needed under Act XII of 1859.	The Calcutta Pilots (Amendment) Act, 1883.
1884	V ..	An Act to amend the Chota Nagpur Encumbered Estates Act, 1876.	The Chota Nagpur Encumbered Estates (Amendment) Act, 1884.

[1] The entry relating to the Criminal Tribes (Amendment) Act, 1876 (7 of 1876) was rep. by the Repealing Act, 1927 (12 of 1927).

[2] The entry relating to the Punjab Laws (Amendment) Act, 1878 (12 of 1878) was rep. by the Punjab Pre-emption Act, 1905 (Punjab 2 of 1905).

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*concld.*	
1886	VIII ..	An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.	The Bengal Tenancy (Amendment) Act, 1886.
1895	XIX ..	An Act to amend the Punjab Courts Act, 1884.	The Punjab Courts (Amendment) Act, 1895.
1896	XVII ..	An Act to amend the Punjab Land-revenue Act, 1887.	The Punjab Land-revenue (Amendment) Act, 1896.
[1] ,,	XVIII	An Act to amend the Punjab Municipal Act, 1891.	The Punjab Municipal (Amendment) Act, 1896.
		PART III.—BENGAL ACTS.	
1862	III ..	An Act to amend Act XI of 1859 (to improve the law relating to sales of land for Arrears of Revenue in the Lower Provinces under the Bengal Presidency).	The Bengal Land-revenue Sales (Amendment) Act, 1862.
,,	VI ..	An Act to amend Act X of 1859 (to amend the law relating to the recovery of rent in the presidency of Fort William in Bengal).	The Bengal Rent Act, 1862.
,,	VII ..	An Act to repeal section 30 of Regulation II, 1819 (for modifying the provisions contained in the existing Regulations regarding the Resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made).	The Bengal Land-revenue Resumption Act, 1862.
[2] *	*	* * *	* * *
[3] 1863	II ..	An Act to abate and prevent nuisances arising from the smoke of furnaces in the Town and Suburbs of Calcutta.	The Calcutta and Howrah Smoke Nuisances Act, 1863.

[1] Act 18 of 1896 was rep. by the Punjab Municipal Act, 1911 (Punjab 3 of 1911).

[2] The entry relating to the Bengal Zamindari Dak Act, 1862 (Ben. 8 of 1862) was rep. by the Repealing and Amending Act, 1914 (10 of 1914)

[3] This Act has been rep. by the Bengal Smoke Nuisances Act, 1905 (Ben. 3 of 1905).

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART III.—BENGAL ACTS—*contd.*	
1864	IV ..	An Act to amend Act XXI of 1836.	The Bengal Districts Act, 1864
1865	IV ..	An Act for the prohibition of the practice of inoculation in the Town and Suburbs of Calcutta and in towns to which Act III of 1864, passed by the Lieutenant-Governor of Bengal in Council, has been or shall hereafter be extended.	The Bengal Prevention of Inoculation Act, 1865.
[1] ,,	VII ..	An Act to make provision for the better regulation and supervision of Public Slaughter-houses in the Suburbs of Calcutta, and for the adoption of proper conservancy arrangements connected therewith.	The Bengal Municipal (Slaughter-houses and Meat-markets) Act. 1865.
,,	VIII ..	An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.	The Bengal Rent Recovery (Under-tenures) Act, 1865.
1866	II ..	An Act to provide for the better regulation of the Police within the suburbs of the town of Calcutta.	The Calcutta Suburban Police Act, 1866.
,,	III .	An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations	The Bengal Legislative Council (Witnesses) Act, 1866.
,,	VII ..	An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto.	The Bengal Embankment Act, 1866.
1867	II ..	An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal.	The Bengal Public Gambling Act, 1867.

[1] This Act has been rep. by the Bengal Municipal Act, 1932 (Ben. 15 of 1932).

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART III.—BENGAL ACTS—*contd.*	
1867	III ..	An Act to amend the law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal.	The Bengal Ports Act, 1867.
,,	IV ..	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The Bengal Rent (Appeals) Act, 1867.
1868	III ..	An Act to amend the law respecting appeals in cases under Regulation VII of 1822.	The Bengal Land-revenue Settlement Act, 1868.
,,	IV ..	An Act to amend the provisions of Act IX of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa).	The Bengal Alluvion (Amendment) Act, 1868.
,,	VII ..	An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.	The Bengal Land-revenue Sales Act, 1868.
1869	I ..	An Act for the Prevention of Cruelty to Animals.	The Bengal Cruelty to Animals Act, 1869.
,,	III ..	An Act to enable Police-officers to arrest without warrant persons guilty of cruelty to animals.	The Bengal Cruelty to Animals (Arrest) Act, 1869.
,,	VII ..	An Act to amend the constitution of the Police-force in Bengal.	The Bengal Police Act, 1869.
1871	I ..	An Act to amend the Village Chaukidári Act, 1870.	The Bengal Village Chaukidári Act, 1871.
,,	II ..	An Act to amend the procedure for the recovery of arrears of land-revenue in respect of tenures not being estates.	The Bengal Land-revenue Sales (Amendment) Act, 1871.
1873	I ..	An Act to amend the Salt Act, 1864.	The Bengal Salt Act, 1873.
,,	IV ..	An Act for registering Births and Deaths.	The Bengal Births and Deaths Registration Act, 1873.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART III.—BENGAL ACTS—*contd.*	
1876	I ..	An Act to provide for the voluntary Registration of Muhammadan Marriages and Divorces.	The Bengal Muhammadan Marriages and Divorces Registration Act, 1876.
,,	II ..	An Act to amend Act XI of 1849, Act XXI of 1856 and Bengal Act IV of 1866.	The Calcutta Police (Amendment) Act, 1876.
1878	V ..	An Act to amend Bengal Act VII of 1876.	The Bengal Land Registration (Amendment) Act, 1878.
1879	II ..	An Act to amend and extend the Puri Lodging-house Act, 1871.	The Puri Lodging House (Extension) Act, 1879.
[1]*	*	* * *	* * *
1879	VIII ..	An Act to define and limit the powers of Settlement officers.	The Bengal Rent Settlement Act, 1879.
1880	III ..	An Act to amend the Howrah Bridge Act, 1871.	The Howrah Bridge Act, 1880.
1881	II ..	An Act to amend the Cess Act, 1880.	The Bengal Cess (Amendment No. 2) Act, 1881.
,,	III ..	An Act to amend the Court of Wards Act, 1879.	The Bengal Court of Wards (Amendment) Act, 1881.
[2]1883	I ..	An Act to amend the Bengal Excise Act, 1878.	The Bengal Excise (Amendment) Act, 1883.
,,	V ..	An Act for the Registration and Control of Porters and Dandeewalas in the Darjeeling and Kurseong Municipalities.	The Darjeeling and Kurseong Municipal (Porters) Act, 1883.
1884	I ..	An Act further to amend Bengal Act IV of 1871.	The Puri Lodging-House (Extension) Act, 1884.
,,	II ..	An Act to amend the Calcutta Tramways Act, 1880.	The Calcutta Tramways (Amendment) Act, 1884.
1886	I ..	An Act to further amend the Village Chaukidári Act, 1870.	The Bengal Village Chaukidári (Amendment) Act, 1886.
,,	II ..	An Act to amend Bengal Act II of 1866, and the Calcutta Police Act, 1866.	The Calcutta and Suburban Police (Amendment) Act, 1886.

[1] The entry relating to the Bengal Steam-boilers and Prime-movers Act, 1879 (Ben. 3 of 1879) rep. by the Indian Boilers Act, 1923 (5 of 1923).

[2] Ben. Act 1 of 1883 has been rep., in Western Bengal, by the Bengal Excise Act, 1909 (Ben. 5 of 1909) and, in Eastern Bengal, by the Eastern Bengal and Assam Excise Act, 1910 (E. B. and A. 1 of 1910).

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
		PART III.—BENGAL ACTS—*concld.*	
[1] 1886	III ..	An Act to amend Bengal Act III of 1884.	The Bengal Municipal (Amendment) Act, 1886.
1887	II ..	An Act to amend Bengal Act V of 1880.	The Bengal Vaccination (Amendment) Act, 1887.
1889	IV ..	An Act to provide for the appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the interment of persons other than Christians or Muhammadans.	The Calcutta Burial Boards Act, 1889.
[2] 1890	I ..	An Act to consolidate the Calcutta and the Suburban Police Superannuation Funds.	The Calcutta and Suburban Police (Superannuation Fund) Act, 1890.
,,	II ..	An Act to amend the Bengal Vaccination Act, 1880.	The Bengal Vaccination (Amendment) Act, 1890.
1892	I ..	An Act to further amend the Village Chaukidári Act, 1870.	The Bengal Village Chaukidári (Amendment) Act, 1892.
1894	II ..	An Act to amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment) Act, 1894.
[1] ,,	IV ..	An Act to amend the Bengal Municipal Act, 1884.	The Bengal Municipal (Amendment) Act, 1894.
1895	II ..	An Act to further amend the Suburban Police Act, 1866, and the Calcutta Police Act, 1866.	The Calcutta and Suburban Police (Amendment) Act, 1895.
,,	IV ..	An Act to further amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment No. 1) Act, 1895.
,,	VI ..	An Act to further amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment No. 2) Act, 1895.
[1] 1896	II ..	An Act to further amend the Bengal Municipal Act, 1884.	The Bengal Municipal (Amendment) Act, 1896.
[3] 1897	I ..	An Act to amend the Public Demands Recovery Act, 1895.	The Bengal Public Demands Recovery (Amendment) Act, 1897.
1899	II ..	An Act to repeal the Civil Courts Amins Act, 1856, in Bengal.	The Bengal Civil Court Amins Act, 1899.

[1] This Act has been rep. by the Bengal Municipal Act, 1932 (Ben. 15 of 1932).

[2] This Act has been rep. by the Calcutta and Suburban Police (Superannuation Fund) Act, 1905 (Ben. 6 of 1905).

[3] This Act has been rep. in Bengal by the Bengal Public Demands Recovery Act, 1913 (Ben. 3 of 1913) and in B. and O. by the B. and O. Public Demands Recovery Act, 1914 (B. and O. 4 of 1914).

THE SECOND SCHEDULE.—[Amendments.] Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

THE THIRD SCHEDULE.—[Repeals.] Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II

THE INDIAN WORKS OF DEFENCE ACT, 1903.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
2. Definitions.

PART II.

IMPOSITION OF RESTRICTIONS.

3. Declaration and notice that restrictions will be imposed.
4. Power to do preliminary acts after publication of notice under section 3, sub-section (*2*).
5. Payment for damage.
6. Further powers exerciseable after publication of notice under section 3, sub-section (*2*).
7. Restrictions.
8. Land to be marked out, measured, registered and planned.
9. Notice to persons interested.
10. Power to require and enforce the making of statements as to names and interests.
11. Application of certain sections of the Indian Penal Code.
12. Inquiry and award by Collector.
13. Award of Collector when to be final.
14. Adjournment of inquiry.
15. Power to summon and enforce attendance of witnesses and production of documents.
16. Matters to be considered and neglected.
17. Supplementary proceedings.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18. Reference to Court.
19. Collector's statement to the Court.

SECTIONS.

20. Service of notice.
21. Restriction on scope of proceedings.
22. Proceedings to be in open Court.
23. Matters to be considered in determining compensation.
24. Matters not to be considered in determining compensation.
25. Rules as to amount of compensation.
26. Form of awards.
27. Costs.
28. Collector may be directed to pay interest on excess compensation

PART IV.

APPORTIONMENT OF COMPENSATION.

29. Particulars of apportionment to be specified.
30. Dispute as to apportionment.

PART V.

PAYMENT.

31 Payment of compensation or deposit of same in Court.
32. Investment of money deposited in respect of lands belonging to persons incompetent to alienate.
33. Investment of money deposited in other cases.
34. Payment of interest.

PART VI.

MISCELLANEOUS.

35. Service of notices.
36. Penalties.
37. Magistrate to enforce the terms of the Act.
38. Completion of imposition of restrictions not compulsory, but compensation to be awarded when not completed.
39. Demolition of part of house or building and imposition of restrictions on part of land.
40. Exemption from stamp-duty and fees.
41. Notice in case of suits for anything done in pursuance of Act.
42. Code of Civil Procedure to apply to proceedings before Court.
43. Appeals in proceedings before Court.
44. Power to make rules.

(*Part I.—Preliminary.*)

ACT No. VII OF 1903.[1]

[*20th March, 1903.*]

An Act to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition.

WHEREAS it is expedient to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Indian Works of Defence Act, 1903 ; and

(*2*) It extends to ~~the whole of British India~~, including ~~British Baluchistan,~~ the Santhal Parganas and the Pargana of Spiti.

Definitions

2. In this Act, unless there is something repugnant in the subject or context,—

(*a*) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :

(*b*) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the imposition of restrictions upon the use and enjoyment of land under this Act ; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :

[2][(*c*) the expression "District" means one of the Districts into which India is, for military purposes for the time being, divided ; it includes a Brigade area which does not form part of any District, and any area which the [3][Central Government] may, by notification in the [4][Official Gazette], declare to be a District for all or any of the purposes of this Act :

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 84 ; for Report of the Select Committee, *see ibid.*, 1903, p 105 ; for Proceedings in Council, *see ibid.*, 1902, Pt. VI, p. 175 ; *ibid.*, 1903, pp. 14 and 50.

This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

2 Subs. by the Indian Works of Defence (Amendment) Act, 1921 (11 of 1921), s. 2, for the original clauses (*c*) and (*d*).

3 Subs. by the A. O. for "G. G. in C.".

4 Subs. by the A. O. for "Gazette of India".

(*d*) the expression "General Officer Commanding the District" means the officer for the time being in command of the forces in a District :]

(*e*) the expression "Commanding Officer" means the officer for the time being in command of a work of defence :

(*f*) the expression "Collector" includes any officer specially appointed by the [1][Central Government] to perform the functions of a Collector under this Act :

(*g*) the expression "Court" means a principal Civil Court of original jurisdiction, unless the [1][Central Government] has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act :

(*h*) "maintain", with its grammatical variations and cognate expressions, does not, when used in relation to a house or other construction, include the doing of any act necessary for keeping such house or construction, until the making of the award referred to in section 12 or until the exercise, prior to the making of the award, of the powers of demolition conferred, in case of emergency, by section 6, sub-sections (*1*) and (*3*), in the state in which it was at the time of the publication of the notice referred to in section 3, sub-section (*2*) :

(*i*) the following persons shall be deemed "entitled to act" as and to the extent hereinafter provided, that is to say,—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any case, and that to the same extent as the persons beneficially interested could have acted if free from disability :

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age : and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that—

(*i*) no person shall be deemed "entitled to act" whose interest in the subject-matter is shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;

---

1 Subs. by the A. O. for "L. G.".

(*ii*) in every case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;

XIV of 1882. (*iii*) the provisions of Chapter XXXI of the Code of Civil Procedure[1] shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act ; and

(*iv*) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land upon the use and enjoyment of which restrictions are to be imposed and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

IMPOSITION OF RESTRICTIONS.

Declaration and notice that restrictions will be imposed.

3. (*1*) Whenever it appears to the [2][Central Government] that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders.

(*2*) The said declaration shall be published in the [3][Official Gazette] and shall state the district or other territorial division in which the land is situate and the place where a sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the boundaries referred to in section 7, may be inspected ; and the Collector shall cause public notice of the substance of the said declaration to be given at convenient places in the locality.

(*3*) The said declaration shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions.

Power to do preliminary acts after publication of notice under section 3, sub-section (2).

4. It shall be lawful for such officer as the [2][Central Government] may, by general or special order, authorise in this behalf, and for his servants and workmen, at any time after publication of the notice mentioned in section 3, sub-section (*2*), to enter upon and survey and take levels of any land in such locality, to dig or bore into the sub-soil, to do

---

1 *See* now the Code of Civil Procedure, 1908 (5 of 1908), Sch. I, Order XXXII.

2 Subs. by the A. O., for "L. G.".

3 Subs. by the A. O., for "local official Gazette".

all other acts necessary to ascertain whether any and, if so, what restrictions should be imposed on the use and enjoyment of the land, to set out the boundaries of the land upon the use and enjoyment of which restrictions are to be imposed, or of any part of such land, to mark such levels, boundaries and line by placing marks and cutting trenches, and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

Further powers exerciseable after publication of notice under section 3, sub-section (*2*).

6. (*1*) Whenever a declaration has been made and public notice thereof has been given under section 3, it shall, subject to the provisions of sub-sections (*2*) to (*4*), be lawful for such officer as the [1][Central Government] may, by general or special order, authorise in this behalf, and for his servants and workmen, to enter and demolish any buildings or other constructions on the surface, to cut down or grub up all or any of the trees, to remove or alter all or any of the banks, fences, hedges and ditches, to make underground and other drains, to fill up all excavations, and demolish all buildings and other constructions below the surface, and generally to level and clear the said land and do all such acts for levelling and clearing the same as he may deem necessary or proper, but in such manner nevertheless that evidence of the boundaries of the lands held by different owners may be preserved.

(*2*) The powers conferred by sub-section (*1*) shall not be exercised,—

(*a*) save as otherwise provided by sub-section (*3*), before the making of the award hereinafter referred to in section 12, nor

(*b*) save as otherwise provided by sub-section (*4*), after the expiration of six months from the making of the said award, or any shorter period on the expiration of which the officer exercising such powers gives notice to the Collector that there will be no further exercise of them.

---

[1] Subs. by the A. O. for "L. G."

(*Part II.—Imposition of Restrictions.*)

(*3*) In case of emergency, the [1][Central Government] [2]* * may, by notification in the [3][Official Gazette], declare that all or any powers conferred by sub-section (*1*) may be exercised at any time within six months after the publication of the notice referred to in section 3, sub-section (*2*), and such powers may be exercised accordingly, and the said notification shall be conclusive proof of emergency.

(*4*) Nothing in sub-section (*2*) shall be deemed to preclude any such officer or his servants or workmen from exercising at any time the said powers for the purpose of removing, wholly or in part, any building or other obstruction maintained, created, added to, altered, planted, stacked, stored or otherwise accumulated in contravention of this Act or of any rule or order made thereunder or of any condition prescribed in accordance therewith.

Restrictions.

7. From and after the publication of the notice mentioned in section 3, sub-section (*2*), such of the following restrictions as the [1][Central Government] may in its discretion declare therein shall attach with reference to such land, namely :—

(*a*) Within an outer boundary which, except so far as is otherwise provided in section 39, sub-section (*4*), may extend to a distance of two thousand yards from the crest of the outer parapet of the work,—

(*i*) no variation shall be made in the ground-level, and no building, wall, bank or other construction above the ground shall be maintained, erected, added to or altered otherwise than with the written approval of the [4][General Officer Commanding the District], and on such conditions as he may prescribe ;

(*ii*) no wood, earth, stone, brick, gravel, sand or other material shall be stacked, stored or otherwise accumulated :

Provided that, with the written approval of the [5][General Officer Commanding the District] and on such conditions as he may prescribe, road-ballast, manure and agricultural produce may be exempted from the prohibition :

Provided also that any person having control of the land as owner, lessee or occupier shall be bound forthwith to remove such road-ballast, manure or agricultural produce, without compensation, on the requisition of the Commanding Officer ;

1 Subs. by the A. O. for " L. G.".
2 The words " with the previous sanction of the G. G. in C.", rep. by the A. O.
3 Subs. by the A. O. for " local official Gazette ".
4 Subs. by the Indian Works of Defence (Amendment) Act, 1921 (11 of 1921), s. 3, for " General Officer Commanding the Division ".
5 Subs. by s. 3, *ibid.*, for " General Officer Commanding the Division, District or Brigade ".

(*Part II.—Imposition of Restrictions.*)

(*iii*) no surveying operation shall be conducted otherwise than by or under the personal supervision of a public servant duly authorised in this behalf, in the case of land under the control of military authority, by the Commanding Officer and, in other cases, by the Collector with the concurrence of the Commanding Officer ; and

(*iv*) where any building, wall, bank or other construction above the ground has been permitted under clause (*i*) of this sub-section to be maintained, erected, added to or altered, repairs shall not, without the written approval of the [1][General Officer Commanding the District], be made with materials different in kind from those employed in the original building, wall, bank or other construction.

(*b*) Within a second boundary which may extend to a distance of one thousand yards from the crest of the outer parapet of the work, the restrictions enumerated in clause (*a*) shall apply with the following additional limitations, namely :—

(*i*) ~~no building, wall, bank or other construction of permanent materials above the ground shall be maintained or erected~~ :

Provided that, with the written approval of the [1][General Officer Commanding the District] and on such conditions as he may prescribe, huts, fences or other constructions of wood or other materials, easily destroyed or removed, may be maintained, erected, added to or altered :

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to destroy or remove such huts, fences or other constructions, without compensation, upon an order in writing signed by the [2][General Officer Commanding the District] ; and

(*ii*) live hedges, rows or clumps of trees or orchards shall not be maintained, planted, added to or altered otherwise than with the written approval of the [1][General Officer Commanding the District] and on such conditions as he may prescribe.

(*c*) Within a third boundary which may extend to a distance of five hundred yards from the crest of the outer parapet of the work, the restrictions enumerated in clauses (*a*) and (*b*) shall apply with the following additional limitation, namely :—

no building or other construction on the surface, and no excavation, building or other construction below the surface, shall be maintained or erected :

---

1 Subs. by the Indian Works of Defence (Amendment) Act, 1921 (11 of 1921), s. 3, for "General Officer Commanding the Division".

2 Subs. by s. 3, *ibid.*, for "General Officer Commanding the Division, District or Brigade".

"no building,wall,bank or other construction of permanent materials above the ground shall be maintained otherwise than with the written approval of the General Officer Commanding the District and on such conditions as he may prescribe,and no such building,wall,bank or other construction shall be erected."

(*Part II.—Imposition of Restrictions.*)

Provided that, with the written approval of the Commanding

" a building or other construction on the surface may be maintained and)

Land to be marked out measured, registered and planned.

8. As soon as may be after the publication of the declaration aforesaid, the Collector shall cause the land to be marked out and measured, and shall also prepare a register and a detailed plan, which shall be on a scale not smaller than six inches to the mile, showing accurately every building, tree and other obstruction.

Notice to persons interested.

9. (*1*) At any time before the expiration of—

(*a*) the period of eighteen months from the publication of the declaration referred to in section 3, or

(*b*) such other period not exceeding three years from the said publication as the [1][Central Government] [2]* * * may, by notification in the [3][Official Gazette], direct in this behalf,

the Collector shall cause public notice to be given at convenient places on or near the land, stating the effect of the said declaration and that claims to compensation for all interests in such land affected by anything done or ordered in pursuance of such declaration may be made to him :

Provided that, where anything has been done in exercise of the powers conferred, in case of emergency, by section 6, sub-section (*3*), the notice prescribed by this section shall be given as soon as may be thereafter.

(*2*) Such notice shall state the particulars of any damage ordered to be done or, in the case referred to in section 6, sub-section (*3*), done in exercise of any of the powers conferred by the said section, and the particulars of any restrictions attaching to the land under section 7, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for damage to such interests and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(*3*) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed

1 Subs. by the A. O. for " L. G ".
2 The words " with the previous sanction of the G. G. in C.", rep. by the A. O.
3 Subs. by the A. O. for " local official Gazette ".

to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue-district in which the land is situate.

(*4*) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business.

Power to require and enforce the making of statements as to names and interests.

10. The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Application of certain sections of the Indian Penal Code.

11. Every person required to make or deliver a statement under section 9 or section 10 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. XLV of 1860.

Inquiry and award by Collector.

12. On the day fixed under section 9 or on any other day to which the inquiry has been adjourned, the Collector shall proceed to inquire into the objections (if any) which any person interested has stated pursuant to a notice given under the said section to the measurements made under section 8, and into the decrease in the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(*a*) the true area of the land and the nature of the obstructions from which the land is to be kept free ;

(*b*) the compensation which in his opinion should be allowed for any damage caused or to be caused under section 6 and for any restrictions imposed under section 7 ; and

(*c*) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom or of whose claims he has information, whether they have respectively appeared before him or not.

Award of Collector when to be final.

13. (*1*) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area of the land, the nature of the said obstructions from which the land is to be kept free, the damage caused or to be caused under section 6, the value of the rights restricted under section 7, and the apportionment of the compensation among the persons interested.

(*Part II.—Imposition of Restrictions. Part III.—Reference to Court and Procedure thereon.*)

(*2*) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

14. The Collector may, for any cause he thinks fit, from time to time adjourn the inquiry to a day to be fixed by him. Adjournment of inquiry.

15. For the purpose of inquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents, by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.[1] Power to summon and enforce attendance of witnesses and production of documents.

XIV of 1882

16. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24. Matters to be considered and neglected.

17. Whenever the officer exercising powers conferred by section 6 considers it necessary that anything in respect of which any person is or may be entitled to compensation but of which no notice has been given or compensation awarded, under sections 9 and 12, respectively, should be done in pursuance of the said powers, the Collector shall cause supplementary notice to be given, as nearly as may be, in the manner prescribed by section 9 and subject to the limit of time imposed by sub-section (*1*) of that section, and the provisions of sections 10 to 16 shall, so far as they are applicable, be deemed to apply to any further inquiry and award which may be held or made in consequence of such supplementary notice. Supplementary proceedings.

PART III.

Reference to Court and Procedure thereon.

18. (*1*) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested : Reference to Court.

Provided that every such application shall be made,—

(*a*) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award ;

---

1 *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

(*Part III.—Reference to Court and Procedure thereon.*)

(*b*) in other cases, within six weeks of the receipt of the notice from the Collector under section 13, sub-section (*2*), or within six months from the date of the Collector's award, whichever period shall first expire.

(*2*) The application shall state the grounds on which objection to the award is taken.

Collector's statement to the Court.

19. (*1*) In making the reference the Collector shall state, for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land with particulars of any damage caused under section 6 or of restrictions imposed under section 7 ;

(*b*) the names of the persons whom he has reason to think interested in such land ;

(*c*) the amount of compensation awarded under section 12 ; and,

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(*2*) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely :—

(*a*) the applicant ;

(*b*) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded ; and

(*c*) if the objection is in regard to the area of the land, the nature of the obstructions or the amount of the compensation, the Collector.

Restriction on scope of proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings to be in open Court.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the Province shall be entitled to appear, plead and act, as the case may be, in such proceeding.

Matters to be considered in determining compensation.

23. (*1*) In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall take into consideration—

(*a*) the actual decrease in market-value of the land owing to the publication of the declaration relating thereto under section 3 and any damage caused or to be caused under section 6 ;

(Part III.—Reference to Court and Procedure thereon.)

(*b*) the damage sustained by the person interested, by reason of the removal of any standing crops in the exercise of any power conferred by section 6 ;

(*c*) the damage (if any) sustained by the person interested, by reason of ceasing to be able to use such land conjointly with his other land ;

(*d*) the damage (if any) sustained by the person interested by anything done or ordered under sections 6 and 7 injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings ; and,

(*e*) if, in consequence of the imposition of restrictions, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

(*2*) In addition to the amount representing the actual decrease in the market-value of the land as above provided, the Court shall in every case award a further sum of fifteen per centum on such amount.

Matters not to be considered in determining compensation.

24. In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall not take into consideration—

(*a*) the degree of urgency which has led to the damage or the imposition of restrictions ;

(*b*) any disinclination of the person interested to submit to damage or restrictions ;

(*c*) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit ;

(*d*) any increase to the value of the other land of the person interested, accruing or likely to accrue from anything done under this Act ; or

(*e*) any outlay or improvements on, or disposal of, the land commenced, made or effected without the sanction of the Collector after the date of the publication of the declaration under section 3.

Rules as to amount of compensation.

25. (*1*) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 12.

(*2*) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(*3*) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of awards.

26. Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under section 23, sub-section (*7*), clause (*a*), and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Costs.

27. (*1*) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportion they are to be paid

(*2*) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court is of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Collector may be directed to pay interest on excess compensation.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date of his award to the date of payment of such excess into Court.

PART IV.

Apportionment of Compensation.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 12, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

(*Part V.—Payment.*)

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (*1*) On making an award under section 12, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (*2*).

(*2*) If they do not consent to receive it, or if there is no person competent to alienate the land, or if there is any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted :

Provided, first, that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount :

Provided, secondly, that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18 :

Provided, thirdly, that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(*3*) Notwithstanding anything in this section, the Collector may, with the sanction of the [1][Central Government], instead of awarding a money-compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, or by the remission of land-revenue on the same or on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(*4*) Nothing in sub-section (*3*) shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

32. (*1*) If any money is deposited in Court under section 31, sub-section (*2*), and it appears that the land in respect of which the same was awarded belonged to any person who had no power to alienate the same, the Court shall order the money to be invested—

(*a*) in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money was deposited is held, or,

---

[1] Subs. by the A. O. for "L. G.".

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as it thinks fit ;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same are applied—

(i) in the purchase of such other lands as aforesaid ; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(*2*) In all cases of moneys deposited to which this section applies, the Court shall order the cost of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely :—

(*a*) the costs of such investments as aforesaid ;

(*b*) the costs of the orders for the payment of the interest or other proceeds of the securities in which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys and the costs of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants

Investment of money deposited in other cases.

33. If any money is deposited in Court under this Act for any cause other than that mentioned in section 32, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it thinks fit, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the land in respect of which such money was deposited or as near thereto as may be.

Payment of interest.

34. When the amount of any compensation awarded under this Act is not paid or deposited within fifteen days of making the award, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the date of the award until it is so paid or deposited.

PART VI.

MISCELLANEOUS.

Service of notices.

35. (*1*) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 3, sub-section (*2*), by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(*2*) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(*3*) When such person cannot be found, the service may be made on any adult male member of his family residing with him ; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house and also in some conspicuous part of the land upon which restrictions are to be imposed :

Provided that, if the Collector or Judge so directs, a notice may be sent by post in a letter addressed to the person named therein at his last known residence, address or place of business and service of it may be proved by the production of the addressee's receipt.

Penalties.

36. Whoever wilfully—

(*a*) obstructs any person in doing any of the acts authorised by section 4, section 6 or section 8, or

(*b*) destroys, damages, alters or otherwise interferes with the ground-level or any work done under section 6, or

(*c*) contravenes any of the provisions of section 7 or any condition prescribed thereunder,

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both, and, in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first in regard to which he is convicted of having persisted in the offence ; and any expenses incurred in removing the effects of his offence may be recovered from him in the manner provided by the law for the time being in force for the recovery of fines.

Magistrate to enforce the terms of the Act.

37. If the Collector or officer authorised under section 6 is opposed or impeded in doing anything directed or permitted by this Act, he shall, if a Magistrate, enforce compliance, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras [1][and Bombay]) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce compliance.

Completion of imposition of restrictions not compulsory, but compensation to be awarded when not completed.

38. (*1*) The [2][Central Government] shall be at liberty to withdraw from the imposition of any declared restrictions before any of the measures authorised by section 6 have been taken.

(*2*) Whenever the [2][Central Government] withdraws the imposition of any declared restrictions, the Collector shall determine the amount of

1 Subs. by the A. O. for "Bombay and Rangoon".
2 Subs. by the A. O. for "L. G.".

compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said restrictions.

(*3*) The provisions of Part III shall apply, so far as may be, to the determination of the compensation payable under this section.

Demolition of part of house or building and imposition of restrictions on part of land.

39. (*1*) The provisions of this Act shall not be put in force for the purpose of demolishing or acquiring the right to demolish a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be demolished or that the right to demolish the whole of it shall be acquired :

Provided that the owner may at any time before the Collector has made his award under section 12, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be demolished, or that the right to demolish the whole of it shall be acquired :

Provided, also, that, if any question shall arise as to whether any building or other construction proposed to be demolished under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court, and such building or other construction shall not be demolished until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the building or other construction proposed to be demolished is reasonably required for the full and unimpaired use of the house, manufactory or building.

(*2*) If, in the case of any claim of the kind referred to in section 23, sub-section (*1*), clause (*c*), by a person interested, on account of ceasing to be able to use the land, upon the use and enjoyment of which restrictions are to be imposed, conjointly with his other land, the [1][Central Government] is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the imposition of restrictions upon the whole of the land of which the land upon the use and enjoyment of which it was first sought to impose restrictions forms a part.

---

[1] Subs. by the A. O. for "L. G.".

(*3*) In the case provided for by sub-section (*2*) no fresh declaration or other proceeding under sections 3 to 10 shall be necessary ; but the Collector shall without delay furnish a copy of the order of the [1][Central Government] to the person interested, and shall thereafter proceed to make his award under section 12.

(*4*) Notwithstanding anything contained in section 7, clause (*a*), any land, upon the use and enjoyment of which restrictions are imposed under this section, may be included in the outer boundary, even though its distance from the crest of the outer parapet of the work exceeds two thousand yards.

Exemption from stamp-duty and fees.

40. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

41. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

XIV of 1882

42. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure[2] shall apply to all proceedings before the Court under this Act.

Appeals in proceedings before Court.

XIV of 1882.

43. Subject to the provisions of the Code of Civil Procedure[2] applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceeding under this Act.

Power to make rules

44. (*1*) The [3][Central Government] [4]* * * may make rules for the guidance of officers in all matters connected with the enforcement of this Act.

(*2*) The power to make rules under sub-section (*1*) shall be subject to the condition of the rules being made after previous publication.

(*3*) All rules made under sub-section (*1*) shall be published in the [5][Official Gazette], and shall thereupon have effect as if enacted in this Act.

---

1 Subs. by the A. O. for "L. G.".

2 This reference should now be construed as referring to the Code of Civil Procedure, 1908 (5 of 1908).

3 Subs. by the A. O. for "G. G. in C.".

4 The words "and the L. G., with the previous sanction of the G. G. in C." rep. by the A. O.

5 Subs. by the A. O. for "local official Gazette".

THE INDIAN TEA CESS ACT, 1903.

ACT No. IX OF 1903.[1]

[*20th March, 1903.*]

An Act to provide for the levy of customs-duty on Indian tea exported from ~~British India~~ [2]* * *.

WHEREAS it is expedient to provide for the creation of a fund to be expended for the promotion of the interests of the tea industry in India by a [3][Board] specially constituted in this behalf ;

And whereas for this purpose it is expedient to levy customs-duty on ~~tea produced in India and exported from British India~~ [2]* * * ;

It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Indian Tea Cess Act, 1903 ; and

(*2*) It extends to ~~the whole of British India~~ [4] * .

Definitions.

2. In this Act,—

(*a*) " Collector " means, in reference to tea exported by sea, a Customs-collector as defined in clause (*c*) of section 3 of the Sea Customs Act, 1878, and, in reference to tea passing out of ~~British India~~ by land, [5][a Collector of Land Customs as defined in clause (*c*) of section 2 of the Land Customs Act, 1924] ; VIII of 1878 XIX of 1924.

(*b*) " tea cess " means the customs-duty imposed [6][by or under] section 3 of this Act [7]* * * ; and

[8][(*c*) " the Board " means the Indian Tea Market Expansion Board constituted under section 4.]

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 6 ; for Report of the Select Committee, *see ibid.*, p. 123 ; for Proceedings in Council, *see ibid.*, Pt. VI, pp. 3, 15 and 56.

2 The words " and to amend section 5 of the Indian Tariff Act, 1894 " rep. by the Indian Tariff Act, 1934 (32 of 1934), s. 13 and Sch. III.

3 Subs. by the Indian Tea Cess (Amendment) Act, 1936 (13 of 1936), s. 9, for " Committee ".

4 The words " except Aden and Burma " rep. by the A. O. The words " and Burma " had been ins. by the Indian Tea Cess (Amendment) Act, 1937 (13 of 1937), s. 2.

5 Subs. by Act 13 of 1936, s. 2, for " the Collector of the district ".

6 Subs. by s. 2, *ibid.*, for " by ".

7 The words " and by s. 5 of the Indian Tariff Act, 1894, as amended by this Act " rep. by Act 32 of 1934, s. 13 and Sch. III.

8 Subs. by Act 13 of 1936, s. 2, for the original clause (*c*), defining " Tea Cess Committee ".

[1][3. (1)] On and from the first day of April, 1903, a customs-duty shall be levied and collected on all tea produced in India and exported from any customs-port to any port beyond the limits of ~~British India~~ [2]* * * at [3][such rate not exceeding one rupee and eight annas per hundred pounds as the [4][Central Government] may, on the recommendation of the Board], prescribe by notification in the [5][Official Gazette].

Imposition of duty on exports of Indian tea.

[6][(2) The [4][Central Government] may, by notification in the [5][Official Gazette], direct that a customs-duty at the like rate shall be levied and collected on all tea produced in India and taken by land from ~~British India~~ to any place beyond the limits of ~~British India~~.]

4. (1) The [4][Central Government] shall constitute [7][a body to be called the Indian Tea Market Expansion Board] to receive and expend the proceeds of the tea cess

Constitution of the Indian Tea Market Expansion Board.

(2) The [8][Board] shall in the first instance consist of [9][twenty-~~seven~~ eight-] members, who shall be appointed by the [4][Central Government] on the recommendation of the following bodies and authorities, namely :—

[10][(a) two on the recommendation of the Bengal Chamber of Commerce, one on the recommendation of the Bengal National Chamber of Commerce, one on the recommendation of the Madras Chamber of Commerce and one on the recommendation of the Associated Chamber of Commerce and one on the recommendation of the Federation of Indian Chambers of Commerce and Industry and one on the recommendation of the South Indian Chamber of Commerce ;

(b) five on the recommendation of the Indian Tea Association, Calcutta, two on the recommendation of the Assam Branch of the Indian Tea Association and two on the recommendation of the Surma Valley Branch of the Indian Tea Association ;

(c) two on the recommendation of the United Planters' Association of Southern India, two on the recommendation of the Dooars Planters' Association, one on the joint recommendation of the Darjeeling Planters' Association and the Terai Planters'

---

1 The original s. 3 was renumbered as sub-section (1) of that section by the Indian Tea Cess (Amendment) Act, 1936 (13 of 1936), s. 3.

2 The words "or to Aden", rep. by the A. O. 1937

3 Subs. by Act 13 of 1936, s. 3, for "the rate of twelve annas per hundred pounds or at such lower rate as the G. G. in C. may, on the recommendation of the Tea Cess Committee".

4 Subs. by the A. O. for "G. G. in C.".

5 Subs. by the A. O. for "Gazette of India".

6 Ins. by Act 13 of 1936, s. 3.

7 Subs. by s. 4, *ibid.*, for "a Committee".

8 Subs. by s. 9, *ibid.*, for "Committee".

9 Subs. by s. 4, *ibid.*, for "twenty".

10 Subs. by s. 4, *ibid.*, for the original clauses (a), (b) and (c).

Association and one on the recommendation of the Indian Tea Planters' Association, Jalpaiguri ; ~~and~~

(*d*) ~~two on the recommendation of the Government of Bengal of which one is to represent the Tea Planters in North Bengal and one~~ to represent the Tea Planters of Tripura and Chittagong who are Indians, one on the recommendation of the Assam Valley Indian Tea Planters' Associations, one on the recommendation of the Surma Valley Indian Planters' Associations and one on the recommendation of the Government of Madras to represent Tea Planters in Southern India who are Indians :]

Provided that if, within the period prescribed in this behalf by rules made under this Act, any of the said bodies or authorities fails to make any recommendation, or to make the full number of recommendations which it is entitled to make, the [1][Central Government] may appoint the required number of members of the [2][Board] of [3][its] own motion without such recommendation.

[4][(*2A*) The Executive Committee of the Board shall consist of nine members of whom not less than three shall be Indians.]

(*3*) Whenever any member appointed either on the recommendation of any body or authority referred to in sub-section (*2*), or in default of such recommendation, dies, resigns, ceases to reside in ~~British India~~ or becomes incapable of acting as a member of the [2][Board], the [1][Central Government] may, in [3][its] discretion, on the recommendation of such body or authority, or in default of such recommendation, appoint another person to be a member in his stead.

(*4*) No act done by the [5][Board] shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the [2][Board].

Application of proceeds of tea cess.

5. (*1*) At the close of each month, or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the tea cess, after deducting the expenses of collection (if any), to the [5][Board].

(*2*) The said proceeds and any other moneys received by the [2][Board] in this behalf shall be applied by the [2][Board] towards meeting the cost of such measures as the [2][Board] may consider it advisable to take for promoting the sale and increasing the consumption in India and elsewhere of [6][tea generally and especially Indian tea].

---

1 Subs. by the A. O. for "G. G. in C.".

2 Subs. by the Indian Tea Cess (Amendment) Act, 1936 (13 of 1936), s. 9, for "Committee".

3 Subs. by the A. O. for "his".

4 Ins. by s. 5 of Act 13 of 1936.

5 Subs. by s. 9, *ibid.*, for "Tea Cess Committee".

6 Subs. by s. 6, *ibid.*, for "teas produced in India".

"(one on the recommendation of the Terai Indian Planters 8 Association, one on the recommendation of the Government of West Bengal

(e) one on the recommendation of the Travancore Government to represent the tea planters of Travancore.

[1][(*3*) The Board may, subject to the provisions of any rules made under section 7, borrow on the security of the tea cess for any purpose for which it is authorised under sub-section (*2*) to expend its funds :

Provided that the total amount borrowed shall not at any time exceed five lakhs of rupees and that no loan shall be taken which is repayable later than six months from the date of the loan.]

Keeping and auditing of accounts.

6. (*1*) The [2][Board] shall keep accounts of all money received and expended under section 5.

(*2*) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the [3][Central Government] ; and such auditors may disallow any item which has, in their opinion, been expended out of any money so received otherwise than as directed by or under this Act.

(*3*) If any item is disallowed, an appeal shall lie to the [3][Central Government], whose decision shall be final.

Power to make rules.

7. (*1*) The [3][Central Government], after consulting the [2][Board] and after previous publication, may make rules[4] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the nomination, [5][election, recommendation,] [6]* appointment [5][and retirement] of members of the [7][Board], and the procedure of the [7][Board] ;

(*b*) the levy and payment of the cess ; [6]*

(*c*) the form of accounts to be kept and the publication of an abstract of such accounts with the report of the auditors thereon ;

[5][(*d*) the conditions subject to which the Board may incur expenditure outside India for the promotion of the interests of the Indian tea industry ; and

(*e*) the conditions subject to which the Board may exercise its borrowing powers.]

(*3*) All such rules shall be published in the [8][Official Gazette].

8. [*Amendment of Act VIII of 1894, section 5.*] *Rep. by the Indian Tariff Act, 1934 (XXXII of 1934), s. 13 and Sch. III.*

---

1 Ins. by the Indian Tea Cess (Amendment) Act, 1936 (13 of 1936), s. 6.
2 Subs. by s. 9, *ibid.*, for "Tea Cess Committee".
3 Subs. by the A. O. for "G. G. in C".
4 For rules, *see* Gazette of India, 1937, Pt. I, p. 1405.
5 Ins. by Act 13 of 1936, s. 7.
6 The word "and" rep. by s. 7, *ibid.*
7 Subs. by s. 9, *ibid.*, for "Committee".
8 Subs. by the A. O. for "Gazette of India".

Time during which sections 2 to 7 are to remain in force.

9. Sections 2 to 7 shall remain in force only until the thirty-first day of March [1][1938] :

Provided that the [2][Central Government] may, on the recommendation of the [3][Board], declare, by notification in the [4][Official Gazette], that the said sections shall continue in force for any further period specified in such notification.

Disposal of surplus proceeds of tea cess.

10. If any proceeds of the tea cess or any moneys so received as aforesaid remain unexpended when sections 2 to 7 cease to be in force, they shall vest in His Majesty.

THE VICTORIA MEMORIAL ACT, 1903.

ACT No. X OF 1903.[5]

[*20th March, 1903.*]

An Act to provide for the erection and management of the Victoria Memorial at Calcutta.

WHEREAS it is intended to erect at Calcutta a building as a memorial of the life and reign of Her late Majesty VICTORIA of the United Kingdom of Great Britain and Ireland, Queen, Empress of India, and for this purpose large sums of money have been subscribed by the princes and people of India ;

And whereas at a meeting of subscribers held in Calcutta certain persons were appointed a Provisional Executive Committee to take the custody of the said moneys ;

And whereas it is expedient to make provision for the erection, maintenance and management of the memorial and for the appointment of a permanent body of Trustees ;

It is hereby enacted as follows :—

Short title.

1. (*1*) This Act may be called the Victoria Memorial Act, 1903 ;

[6]* * *

Trustees.

2. (*1*) The Trustees of the Victoria Memorial (hereinafter called the Trustees) shall be the following, namely :—

(*a*) the Governor General of India,

(*b*) [7][the Governor of Fort William in Bengal,]

(*c*) the Chief Justice of Bengal,

---

1 Subs. by the Indian Tea Cess (Amendment) Act, 1936 (13 of 1936), s. 8, "1908".

2 Subs. by the A. O. for "G. G. in C.".

3 Subs. by Act 13 of 1936, s. 9, for "Tea Cess Committee".

4 Subs. by the A. O. for "Gazette of India".

5 For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 164 for Proceedings in Council, *see ibid*, Pt. VI, pp. 22 and 58.

6 The word "and" and sub-section (*2*) rep. by the Repealing and Amending Act 1914 (10 of 1914), s. 3 and Sch. II.

7 Subs. by the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 7 and Sch. E, for "the Lieutenant-Governor of Bengal".

(b) the Governor of West Bengal
)c) the Chief Justice of Calcutta).

(*d*) two persons of high rank nominated by the [1][Central Government] to represent the Chiefs and Nobles of India,

~~(*e*) the Secretary to the [2][Central Government] in the Foreign Department;~~

(e) the Secretary to the Government of India in the Ministry of States,)

~~(*f*) such so many persons as shall from time to time be nominated by the Trustees with the approval of the [1][Central~~

"(3) All acts done by a majority of those present and voting at a meeting of the Trustees, and all acts done in pursuance of a majority decision of the Trustees obtained by circulation to the Trustees of the matter requiring decision, shall be deemed to be act of the Trustees")

(*3*) All acts done by a majority of those present and voting at a meeting of the Trustees shall be deemed to be acts of the Trustees.

(*4*) No act of the Trustees shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of, the body of the Trustees.

(*5*) In the case of *ex-officio* Trustees the person for the time being performing the duties of any of the offices mentioned in sub-section (*1*) shall act as a Trustee.

(*6*) The Trustees may appoint a person to act as their Secretary.

(*7*) Orders for the payment of money on behalf of the Trustees shall be deemed to be sufficiently authenticated if signed by two Trustees and countersigned by the Secretary.

Property vested in Trustees.

3. All sums of money now in the custody of the said Provisional Executive Committee and all other property, whether moveable or immoveable, which have been or may hereafter be given, bequeathed or otherwise transferred for the purposes of the said Memorial or acquired for the said purposes by the Trustees shall vest in the Trustees.

Officers and servants to be public servants.

4 All officers and servants employed by the Trustees shall be deem-
XLV of 1860. ed to be public servants within the meaning of the Indian Penal Code :

Provided that this section shall not apply to persons in the service of any contractor employed by the Trustees.

Rules.

5. (*1*) The [3][Central Government] may make rules[4] to carry out the purposes of this Act.

---

1 Subs. by the A. O. for "Governor General".

2 Subs. by the A. O. for "G. of I.".

3 Subs. by the A. O. for "G. G. in C.".

4 For rules, *see* Gazette of India, 1903, Pt. I, p. 230 ; Gen. R. and O., Vol. III, p. 381.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide—

(*a*) for the manner in which Trustees, other than *ex-officio* Trustees, shall be appointed, and for the periods of time for which such Trustees shall hold office ;

(*b*) for the manner in which meetings of the Trustees shall be convened, the quorum necessary for the transaction of business, and the procedure at such meetings ;

(*c*) for the appointment of Committees of the Trustees, and the powers of expenditure and control which may be delegated to such Committees ;

(*d*) for the erection, maintenance and management of the Memorial, the care and custody of the objects deposited therein, and the conditions under which the public shall have access thereto ;

(*e*) for the form of accounts to be kept by the Trustees, and for the audit and publication of such accounts ; and

(*f*) for the application to the officers and servants employed by the Trustees of the rules which apply to the civil servants of the Crown, or to any class of such civil servants.

THE INDIAN FOREIGN MARRIAGE ACT, 1903.

ACT No. XIV OF 1903.[1]

[*23rd October, 1903.*]

An Act to give effect to the Foreign Marriages Order in Council, 1903.

WHEREAS it is expedient to give effect to the Foreign Marriages Order in Council, 1903 ; It is hereby enacted as follows :—

Short title, extent and application.

1. (*1*) This Act may be called the Indian Foreign Marriage Act, 1903.

(*2*) It extends to ~~the whole of British India~~, inclusive of ~~British Baluchistan~~, the Santhal Parganas, ~~the Shan States~~ and the Pargana of Spiti ; and

(*3*) It applies also to all British subjects and to all servants of the King, whether British subjects or not, in [2][any Indian State].

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 466 ; for Proceedings in Council, *see ibid.*, Pt. VI, pp. 157 and 165.

2 Subs. by the A. O. for "the territories of any Native Prince or State in India".

"(bb) for the manner in which a majority decision of the Trustees shall be obtained by circulation to the Trustees of the matter requiring decision".)

55 & 56 Vict., c. 23.

Notice of marriage intended to be solemnized under 55 & 56 Vict., c. 23.

2. (*1*) Notice in writing of a marriage which it is intended to solemnize under the Foreign Marriage Act, 1892[1], may be given by one of the parties intending such marriage, to—

XV of 1872.

(*a*) a Marriage Registrar appointed under the Indian Christian Marriage Act, 1872, where either of such parties is a person professing the Christian religion ;

(*b*) a District Magistrate, Chief Presidency Magistrate or Political Agent, where neither of such parties is a person professing the Christian religion :

Provided that the party giving such notice as aforesaid shall have had his usual place of abode for not less than three consecutive weeks immediately preceding the giving of notice within the local limits of the area for which the Marriage Registrar, Magistrate or Political Agent to whom the notice is given, is appointed.

(*2*) Every notice given under this section shall state—

(*a*) the name, surname, age and profession or condition of each of the parties intending marriage ;

(*b*) the residence of each of them ;

(*c*) the time during which each of them has dwelt there ; and

(*d*) the place in which the intended marriage is to be solemnized;

and it shall contain a declaration by the party giving the notice to the effect that he believes that there is no impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage.

(*3*) A copy of every notice given under this section shall be published by being affixed in some conspicuous place in the office of the officer to whom the notice is given.

(*4*) On the expiration of four clear days after such notice as aforesaid has been published in the manner prescribed by sub-section (*3*), the officer to whom the notice is given, unless he is aware of any impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage, shall, on payment of such fee (if any) as [2][the Provincial Government for each Province and the Central Government for British subjects and servants of the Crown in any Indian State] may fix in this behalf,[3] furnish the party by whom the notice was given, with a certificate, under his hand and seal, to the effect that the notice has been so given and published.

---

1 Coll. Stat., Vol. II.

1937

2 Subs. by the A. O. for "the G. G. in C.".

3 For rules as to such fees, *see* Gen. R. and O., Vol. III, p. 384.

THE INDIAN EXTRADITION ACT, 1903.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

3. (*1*) Requisition for surrender.
(*2*) Summons or warrant for arrest.
(*3*) Inquiry by Magistrate
(*4*) Committal.
(*5*) Bail.
(*6*) Magistrate's report.
(*7*) Reference to High Court if Government thinks necessary.
(*8*) Warrant for surrender.
(*9*) Lawfulness of custody and re-taking under warrant for surrender.
(*10*) Discharge of fugitive criminals committed to prison after two months.
4. (*1*) Power to Magistrate to issue warrant of arrest in certain cases.
(*2*) Issue of warrant to be reported forthwith.
(*3*) Person arrested not to be detained unless order received.
(*4*) Bail.
5. (*1*) Power of Government to refuse to issue order under section 3 when crime of political character.
(*2*) Power of Government to discharge any person in custody at any time.
6. References to "Police Magistrate" and "Secretary of State" in section 3 of Extradition Act, 1870.

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

7. (*1*) Issue of warrant by Political Agents in certain cases.
(*2*) Execution of such warrant.
(*3*) Proclamation and attachment in case of persons absconding.

SECTIONS.

8. (*1*) Release on giving security.
(*2*) Magistrate to retain bond.
(*3*) Re-arrest in case of default.
(*4*) Deposit in lieu of bond, and forfeiture of bonds.
8A. Power to report case for orders of Central Government.
9. Requisitions by States not being Foreign States.
10. (*1*) Power to Magistrate to issue warrants of arrest in certain cases.
(*2*) Issue of warrant to be reported forthwith.
(*3*) Limit of time of detention of person arrested.
(*4*) Bail.
11. (*1*) Surrender of person accused of, or undergoing sentence for, offence in British India.
(*2*) Suspension of sentence on surrender.
12. Application of Chapter to convicted persons.
13. Abetment and attempt.
14. Lawfulness of custody and re-taking under warrant issued under Chapter.
15. Power of Government to stay proceedings and discharge person in custody.
16. Application of Chapter to offences committed before its commencement.
17. (*1*) Receipt in evidence of exhibits, depositions and other documents.
(*2*) Authentication of the same.
(*3*) Definition of "warrant".
18. Chapter not to derogate from treaties.

CHAPTER IV.

RENDITION OF FUGITIVE OFFENDERS IN HIS MAJESTY'S DOMINIONS.

19. Application of Fugitive Offenders Act, 1881.

CHAPTER V.

OFFENCES COMMITTED AT SEA.

20. Requisition for surrender in case of offence committed at sea.

CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE BRITISH INDIA.

21. Execution of commissions issued by Criminal Courts outside British India.

(*Chapter I.—Preliminary.*)

CHAPTER VII.

SUPPLEMENTAL.

SECTIONS.

22. Power to make rules.

23. Detention of persons arrested under section 54, clause *seventhly*, Act V, 1898.

24. [*Repealed.*]

THE FIRST SCHEDULE—EXTRADITION OFFENCES.

THE SECOND SCHEDULE.—[*Repealed.*]

ACT No. XV OF 1903.[1]

[*4th November, 1903.*]

An Act to consolidate and amend the law relating to the Extradition and Rendition of Criminals.

WHEREAS it is expedient to provide for the more convenient administration in ~~British India~~ of the Extradition Acts, 1870[2] and 1873[2], and of the Fugitive Offenders Act, 1881[2] ; 33 & 34 Vict., c. 52 ; 36 & 37 Vict., c. 60 ; 44 & 45 Vict., c. 69

And whereas it is also expedient to amend the law relating to the extradition of criminals in cases to which the Extradition Acts, 1870 and 1873, do not apply ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Extradition Act, 1903.

(*2*) It extends[3] to ~~the whole of British India~~ (including ~~British Baluchistan~~, the Santhal Parganas and the Pargana of Spiti) ; and

(*3*) It shall come into force on such day as the [4][Central Government], by notification in the [5][Official Gazette], may direct.[6]

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 24 ; for Report of the Select Committee, *see ibid*, 1903, Pt. V, p. 469 ; for Proceedings in Council, *see ibid.*, Pt. VI, pp. 151, 163 and 177.

2 Coll. Stat., Vol. I.

3 This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

4 Subs. by the A. O. for "G. G. in C.".

5 Subs. by the A. O. for "Gazette of India".

6 The Act was brought into force on the 1st June 1904, *see* Gazette of India, 1904, Pt. I, p. 364.

(*Chapter I.—Preliminary. Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.*)

2. In this Act, unless there is anything repugnant in the subject or context,— **Definitions.**

(*a*) "European British subject" means a European British subject as defined by the Code of Criminal Procedure for the time being in force :

(*b*) "extradition offence" means any such offence as is described in the first schedule :

33 & 34 Vict., c. 52 ; 36 & 37 Vict., c. 60.

(*c*) "Foreign State" means a State to which, for the time being, the Extradition Acts, 1870[1] and 1873,[1] apply :

(*d*) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force :

(*e*) "offence" includes any act wheresoever committed which would, if committed in ~~British India~~, constitute an offence : and

(*f*) "rules" include prescribed forms.

CHAPTER II.[2]

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

3. (*1*) Where a requisition is made to the [3][Central Government] [4]* * * by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in or who is suspected of being in ~~British India~~, the [3][Central Government] [5]* * * may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case **Requisition for surrender.**

(*2*) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue. **Summons or warrant for arrest.**

(*3*) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that **Inquiry by Magistrate.**

---

1 Coll. Stat., Vol. I.

2 Chapter II has been declared to have effect in British India as if it were part of the Extradition Act, 1870 (33 & 34 Vict., c. 52) ; *see* Order in Council, dated the 7th March 1904, Gazette of India, 1904, Pt. I, p. 363.

3 Subs. by the A. O. for "G. of I."

4 The words "or to any L. G." rep. by the A. O.

5 The words "or the L. G., as the case may be" rep. by the A. O.

the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

Committal.

(*4*) If the Magistrate is of opinion that a *primâ facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the [1][Central Government] [2]* *.

Bail.

(*5*) If the Magistrate is of opinion that a *primâ facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

Magistrate's report.

(*6*) The Magistrate shall report the result of his inquiry to the [1][Central Government] [2]* * * and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government.

Reference to High Court if Government thinks necessary.

(*7*) If the [1][Central Government] [2]* * * is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order, and the fugitive criminal shall not be surrendered until such question has been decided.

Warrant for surrender.

(*8*) If, upon receipt of such report and statement or upon the decision of any such question, the [1][Central Government] [2]* * * is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Lawfulness of custody and re-taking under warrant for surrender.

(*9*) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (*8*), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of ~~British India~~ may be re-taken upon an escape.

Discharge of fugitive criminals committed to prison after two months.

(*10*) If such a warrant as is prescribed by sub-section (*8*) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (*4*), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal, and upon proof that reasonable notice of the intention to make such application has been given to the

1 Subs. by the A. O. for "G. of I.".

2 The words "or the L. G., as the case may be" rep. by the A. O.

(*Chapter II.—Surrender of Fugitive Criminals in case of Foreign States.*)

[1][Central Government] [2]* * *, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

4. (*1*) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the [3][Central Government] in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction. Power to Magistrate to issue warrant of arrest in certain cases

(*2*) The Magistrate shall forthwith report the issue of a warrant under this section to the [3][Central Government]. Issue of warrant to be reported forthwith.

(*3*) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (*1*). Person arrested not to be detained unless order received

(*4*) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in ~~British India~~ the crime of which he is accused or has been convicted. Bail.

5. (*1*) If the [1][Central Government] [4]* * * is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (*1*). Power of Government to refuse to issue order under section 3 when crime of political character.

(*2*) The [1][Central Government] [5]* * * may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged. Power of Government to discharge any person in custody at any time.

6. The expressions "the Police Magistrate" and "the Secretary of State" in section 3 of the Extradition Act, 1870,[6] shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the [1][Central Government] [2]* *. References to "Police Magistrate" and "Secretary of State" in section 3 of Extradition Act, 1870.

33 & 34 Vict., c. 52.

---

1 Subs. by the A. O. for "G. of I.".
2 The words "or the L. G., as the case may be" rep. by the A. O.
3 Subs. by the A. O. for "L. G.".
4 The words "or any L. G." rep. by the A. O.
5 The words "or the L. G." rep. by the A. O.
6 Coll. Stat., Vol. I.

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

Issue of warrant by Political Agents in certain cases.

7. *(1)* Where an extradition offence has been committed or is supposed to have been committed by a person, not being a European British subject, in the territories of any State not being a Foreign State, and such person escapes into or is in ~~British India~~, and the Political Agent in or for such State issues a warrant, addressed to the District Magistrate of any district in which such person is believed to be, [1][or if such person is believed to be in any Presidency-town to the Chief Presidency Magistrate of such town,] for his arrest and delivery at a place and to a person or authority indicated in the warrant, such Magistrate shall act in pursuance of such warran and may give directions accordingly.

Execution of such warrant.

(2) A warrant issued as mentioned in sub-section *(1)* shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall [1][be produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, who shall record any statement made by him ; such accused person shall then], unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Proclamation and attachment in case of persons absconding.

(3) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate [1][or Chief Presidency Magistrate] under this section as if the warrant had been issued by himself.

Release on giving security.

8. *(1)* Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

Magistrate to retain bond.

(2) When security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond.

Re-arrest in case of default.

(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to

---

1 Ins. by the Indian Extradition (Amendment) Act, 1913 (1 of 1913), s. 2.

his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody.

(*4*) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Deposit in lieu of bond, and forfeiture of bonds.

(3) { (1) [8A. Notwithstanding anything contained in section 7, sub-section (*2*), or in section 8, when an accused person arrested in accordance with the provisions of section 7 is produced before the District Magistrate or Chief Presidency Magistrate, as the case may be, and the statement (if any) of such accused person has been recorded, such Magistrate may, if he thinks fit, before proceeding further report the case to the [2][Central Government] and, pending the receipt of orders on such report, may detain such accused person in custody or release him on his executing a bond with sufficient sureties for his attendance when required.]

Power to report case for orders of Central Government.

(2) In the case of any bond executed in pursuance of this section, the District Magistrate or the Chief Presidency Magistrate, as the case may be, may exercise the powers conferred by the Court of the Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.)

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent.

10. (*1*) If it appears to any Magistrate of the first class or any Magistrate empowered by the [2][Central Government] in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in any State not being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Power to Magistrate to issue warrants of arrest in certain cases

---

1 Ins. by the Indian Extradition (Amendment) Act, 1913 (1 of 1913), s. 3.
2 Subs. by the A. O. for "L. G.".
3 Subs. by the A. O. for "G of I.".
4 The words "or to any L. G." rep by the A. O.

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.)

Issue of warrant to be reported forthwith.

(2) The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the [1][Central Government].

Limit of time of detention of person arrested.

(3) A person arrested on a warrant issued under this section shall not, without the special sanction of the [1][Central Government], be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

Bail.

(4) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in ~~British India~~ the offence with which he is charged.

Surrender of person accused of, or undergoing sentence for, offence in British India.

11. (1) A person accused of an offence committed in ~~British India~~, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in ~~British India~~, shall not be surrendered in compliance with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition that such person be re-surrendered to the [2][Central Government] [3]* * * on the termination of his trial for the offence for which his surrender has been asked :

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

Suspension of sentence on surrender.

(2) On the surrender of a person undergoing sentence under a conviction in ~~British India~~, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Application of Chapter to convicted persons.

12. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State not being a Foreign State, has escaped into or is in ~~British India~~ before his sentence has expired.

Abetment and attempt.

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this

[1] Subs. by the A. O. for "L. G.".
[2] Subs. by the A. O. for "G. of I.".
[3] The words "or the L. G., as the case may be" rep. by the A. O.

(*Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States.*)

Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Lawfulness of custody and retaking under warrant issued under Chapter.

14 It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of ~~British India~~ may be re-taken upon an escape.

Power of Government to stay proceedings and discharge person in custody.

15 The [1][Central Government] [2]* * may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

Application of Chapter to offences committed before its commencement.

16 The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and to an offence in respect of which a Court of ~~British India~~ has concurrent jurisdiction.

Receipt in evidence of exhibits, depositions and other documents.

17. (*1*) In any proceedings under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.

Authentication of the same.

(*2*) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside ~~British India~~, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,—

(*a*) if the warrant purports to be signed by a Judge, Magistrate, or officer of the State where the same was issued or acting in or for such State :

(*b*) if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require :

(*c*) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate

1 Subs. by the A. O. for "G. of I.".
2 The words "or the L. G." rep. by the A. O. 1937

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States. Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions.)

or officer of the State where the conviction took place or acting in or for such State :

(*d*) if the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

Definition of "warrant".

(*3*) For the purposes of this section, "warrant" includes any judicial document authorizing the arrest of any person accused or convicted of an offence.

Chapter not to derogate from treaties.

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly.

CHAPTER IV.[1]

Rendition of Fugitive Offenders in His Majesty's Dominions.

Application of Fugitive Offenders Act, 1881.

19. For the purpose of applying and carrying into effect in British India the provisions of the Fugitive Offenders Act, 1881,[2] the following provisions are hereby made :— 44 & 45 Vict., c. 69

(*a*) the powers conferred on "Governors" of British possessions [3][shall be powers of the Central Government] .

(*b*) the powers conferred on a "Superior Court" may be exercised by any Judge of a High Court :

(*c*) the powers conferred on a "Magistrate" may be exercised by any Magistrate of the first class or by any Magistrate empowered by the [4][Central Government] in that behalf : and

(*d*) the offences committed in ~~British India~~ to which the Act applies. are piracy, treason, and any offence punishable under the Indian Penal Code with rigorous imprisonment for a term of twelve months or more or with any greater punishment. XLV of 1860.

---

1 An Order in Council, dated 7th March 1904, has declared that this Chapter shall be recognized and given effect to throughout His Majesty's Dominions and on the high seas as if it were a part of the Fugitive Offenders Act, 1881 (44 and 45 Vict., s. 69).

2 Coll. Stat., Vol. I.

3 Subs. by the A. O. for "may be exercised by any L. G.".

4 Subs. by the A. O. for "L. G.". For notification by the Govt. of Madras in respect of the City of Madras, *see* Mad. R. and O. ; by the Govt. of Bombay, *see* Bom. Govt. Gazette, 1912, Pt. I, p. 982 ; by the Govt. of Bengal, *see* Calcutta Gazette, 1915, Pt. I, p. 190 ; and local Rules and Orders.

(*Chapter V.—Offences committed at Sea. Chapter VI.—Execution of Commissions issued by Criminal Courts outside British India. Chapter VII.—Supplemental.*)

CHAPTER V.

OFFENCES COMMITTED AT SEA.

Requisition for surrender in case of offence committed at sea.

20. Where the Government of any State outside India makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of ~~British India~~, the [1][Central Government] and any Magistrate having jurisdiction in such port and authorised[2] by the [1][Central Government] in this behalf may exercise the powers conferred by this Act

CHAPTER VI

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE BRITISH INDIA.

Execution of commissions issued by Criminal Courts outside ~~British India~~.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any country or place outside ~~British India~~ in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding :

Provided that this section shall not apply when the evidence is required for a Court or tribunal in any State outside India other than a British Court and the offence is of a political character.

CHAPTER VII.

SUPPLEMENTAL.

Power to make rules.

22. (*1*) The [3][Central Government] may make rules[4] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them ;

(*b*) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies ;

---

1 Subs. by the A. O. for "L. G.".

2 For notification authorizing the Chief Presidency Magistrate, Calcutta, *see* Calcutta Gazette, 1925, Pt. I, p. 190.

3 Subs. by the A. O. for "G. G. in C.".

4 For such rules, *see* Gen. R. and O., Vol. III, pp. 385—388.

(*Chapter VII.—Supplemental. The First Schedule.—Extradition Offences.*)

(*c*) the pursuit and arrest in ~~British India~~, by officers of the Government or other persons authorized in this behalf, of persons accused of offences committed elsewhere ; and

(*d*) the procedure and practice to be observed in extradition proceedings.

(*3*) Rules made under this section shall be published in the [1][Official Gazette] and shall thereupon have effect as if enacted by this Act.

Detention of persons arrested under section 54, clause *seventhly*, Act V, 1898.

23. Notwithstanding anything in the Code of Criminal Procedure, 1898, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10. V of 1898.

24. [*Repeals.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

THE FIRST SCHEDULE.

EXTRADITION OFFENCES.

[*See section 2, clause (b), and Chapter III (Surrender of Fugitive Criminals in case of States other than Foreign States).*]

[The sections referred to are the sections of the Indian Penal Code.]

Frauds upon creditors (section 206).

Resistance to arrest (section 224).

Offences relating to coin and stamps (sections 230 to 263A).

Culpable homicide (sections 299 to 304).

Attempt to murder (section 307).

Thagi (sections 310, 311).

Causing miscarriage, and abandonment of child (sections 312 to 317).

Causing hurt (sections 323 to 333).

Wrongful confinement (sections 347, 348).

Kidnapping and slavery (sections 360 to 373).

Rape and unnatural offences (sections 375 to 377).

Theft, extortion, robbery, etc. (sections 378 to 414).

Cheating (sections 415 to 420).

Fraudulent deeds, etc. (sections 421 to 424).

Mischief (sections 425 to 440).

Lurking house-trespass (sections 443, [2][444]).

---

1 Subs. by the A. O. for "Gazette of India".

2 Subs. by the Repealing and Amending Act, 1914 (10 of 1914), s. 2 and Sch. I, for "446".

(*The First Schedule—Extradition Offences. The Second Schedule.—Enactments repealed.*)

Forgery, using forged documents, etc. (sections 463 to 477A).

[1][Desertion from any unit of [2][Indian States Forces] declared by the [3][Central Government], by notification in the [4][Official Gazette], to be a unit desertion from which is an extradition offence.]

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

XLV of 1860. Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the [3][Central Government] by notification in the [4][Official Gazette] either generally for all States or specially for any one or more States.

THE SECOND SCHEDULE.—[Enactments repealed.] Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.

THE ANCIENT MONUMENTS PRESERVATION ACT, 1904.

CONTENTS.

SECTIONS.

1. Short title and extent.
2. Definitions.
3. Protected monuments.

Ancient Monuments.

4. Acquisition of rights in or guardianship of an ancient monument.
5. Preservation of ancient monument by agreement.
6. Owners under disability or not in possession.
7. Enforcement of agreement.
8. Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner.
9. Application of endowment to repair of an ancient monument.
10. Compulsory purchase of ancient monument.

---

1 Subs. by the Indian Extradition (Amendment) Act, 1922 (16 of 1922), s. 2, for "Desertion from any body of Imperial Service Troops".

2 Subs. by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I, for "Indian State Forces".

3 Subs. by the A. O. for "G. G. in C.".

4 Subs. by the A. O. for "Gazette of India".

SECTIONS.

10A. Power of Central Government to control mining, etc., near ancient monument.

11. Maintenance of certain protected monuments.

12. Voluntary contributions.

13. Protection of place of worship from misuse, pollution or desecration.

14. Relinquishment of Government rights in a monument.

15. Right of access to certain protected monuments.

16. Penalties.

Traffic in Antiquities.

17. Power to Central Government to control traffic in antiquities.

Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects.

18. Power to Central Government to control moving of sculptures, carvings or like objects.

19. Purchase of sculptures, carvings or like objects by the Government.

Archaeological Excavation.

20. Power of Central Government to notify areas as protected.

20A. Power to enter upon and make excavations in a protected area.

20B. Power of Central Government to make rules regulating archæological excavation in protected areas.

20C. Power to acquire a protected area.

General.

21. Assessment of market-value or compensation.

22. Jurisdiction.

23. Power to make rules.

24. Protection to public servants acting under Act.

ACT No. VII OF 1904.[1]

[*18th March, 1904.*]

An Act to provide for the preservation of Ancient Monuments and objects of archæological, historical, or artistic interest.

WHEREAS it is expedient to provide for the preservation of ancient monuments, for the exercise of control over traffic in antiquities and over excavation in certain places. and for the protection and acquisition

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 513 ; for Report of the Select Committee, *see ibid.*, 1904, Pt. V, page 57 ; and for Proceedings in Council, *see ibid.*, 1903, Pt. VI, pp. 166, 191 ; *ibid.*, 1904, Pt. VI, pp. 20 and 76.

This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

in certain cases of ancient monuments and of objects of archæological, historical or artistic interest ; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Ancient Monuments Preservation Act, 1904.

(*2*) It extends to ~~the whole of British India~~, inclusive of ~~British Baluchistan~~, the Santhal Parganas and the Pargana of Spiti.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "ancient monument" means any structure, erection or monument, or any tumulus or place of interment, or any cave, rock-sculpture, inscription or monolith, which is of historical, archæological or artistic interest, or any remains thereof, and includes—

(*a*) the site of an ancient monument ;

(*b*) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument ; and

(*c*) the means of access to and convenient inspection of an ancient monument :

(*2*) "antiquities" include any moveable objects which [1][the Central Government], by reason of their historical or archæological associations, may think it necessary to protect against injury, removal or dispersion :

(*3*) "Commissioner" includes any officer authorized by [2][the Central Government] to perform the duties of a Commissioner under this Act :

(*4*) "maintain" and "maintenance" include the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or of securing convenient access thereto :

(*5*) "land" includes a revenue-free estate, a revenue-paying estate, and a permanent transferable tenure, whether such estate or tenure be subject to incumbrances or not : and

(*6*) "owner" includes a joint owner invested with powers of management on behalf of himself and other joint owners, and any manager or trustee exercising powers of management over an ancient monument, and the successor in title of any such owner and the successor in office of any such manager or trustee :

Provided that nothing in this Act shall be deemed to extend the powers which may lawfully be exercised by such manager or trustee.

---

[1] Subs. by the A. O. for "the Govt.".
[2] Subs. by the A. O. for "the L. G.".

(*Ancient Monuments.*)

Protected monuments.

3. (*1*) The [1][Central Government] may, by notification[2] in the [3][Official Gazette], declare an ancient monument to be a protected monument within the meaning of this Act.

(*2*) A copy of every notification published under sub-section (*1*) shall be fixed up in a conspicuous place on or near the monument, together with an intimation that any objections to the issue of the notification received by the [1][Central Government] within one month from the date when it is so fixed up will be taken into consideration.

(*3*) On the expiry of the said period of one month, the [1][Central Government], after considering the objections, if any, shall confirm or withdraw the notification.

(*4*) A notification published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument to which it relates is an ancient monument within the meaning of this Act.

Ancient Monuments.

Acquisition of rights in or guardianship of an ancient monument.

4 (*1*) The Collector, with the sanction of the [1][Central Government], may purchase or take a lease of any protected monument

(*2*) The Collector, with the like sanction, may accept a gift or bequest of any protected monument.

(*3*) The owner of any protected monument may, by written instrument, constitute the Commissioner the guardian of the monument, and the Commissioner may, with the sanction of the [1][Central Government], accept such guardianship.

(*4*) When the Commissioner has accepted the guardianship of a monument under sub-section (*3*), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Commissioner had not been constituted guardian thereof.

(*5*) When the Commissioner has accepted the guardianship of a monument under sub-section (*3*), the provisions of this Act relating to agreements executed under section 5 shall apply to the written instrument executed under the said sub-section.

(*6*) Where a protected monument is without an owner, the Commissioner may assume the guardianship of the monument.

Preservation of ancient monument by agreement.

5. (*1*) The Collector may, with the previous sanction of [4][the Central Government], propose to the owner to enter into an agreement with [5][the Central Government] for the preservation of any protected monument in his district.

---

1 Subs. by the A. O. for "L. G.".
2 For notifications under this section, *see* Gen. R. & O. and different local Rules and Orders.
3 Subs. by the A. O. for "local official Gazette".
4 Subs. by the A. O. for "the L. G.".
5 Subs. by the A. O. for "the Secretary of State for India in Council".

(*Ancient Monuments.*)

(*2*) An agreement under this section may provide for the following matters, or for such of them as it may be found expedient to include in the agreement :—

(*a*) the maintenance of the monument ;

(*b*) the custody of the monument, and the duties of any person who may be employed to watch it ;

(*c*) the restriction of the owner's right to destroy, remove, alter or deface the monument or to build on or near the site of the monument ;

(*d*) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Collector to inspect or maintain the monument ;

(*e*) the notice to be given to [1][the Central Government] in case the land on which the monument is situated is offered for sale by the owner, and the right to be reserved to [1][the Central Government] to purchase such land, or any specified portion of such land, at its market-value ;

(*f*) the payment of any expenses incurred by the owner or by [1][the Central Government] in connection with the preservation of the monument ;

(*g*) the proprietary or other rights which are to vest in His Majesty in respect of the monument when any expenses are incurred by [1][the Central Government] in connection with the preservation of the monument ;

(*h*) the appointment of an authority to decide any dispute arising out of the agreement ; and

(*i*) any matter connected with the preservation of the monument which is a proper subject of agreement between the owner and [1][the Central Government].

[2]* * * * * * *

(*4*) The terms of an agreement under this section may be altered from time to time with the sanction of [3][the Central Government] and with the consent of the owner.

(*5*) With the previous sanction of [3][the Central Government], the Collector may terminate an agreement under this section on giving six months' notice in writing to the owner.

(*6*) The owner may terminate an agreement under this section on giving six months' notice to the Collector.

---

1 Subs. by the A. O. for "the Govt.".
2 Sub-section (*3*) was rep. by the A. O.
3 Subs. by the A. O. for "the L. G.".

(*7*) An agreement under this section shall be binding on any person claiming to be owner of the monument to which it relates, through or under a party by whom or on whose behalf the agreement was executed.

(*8*) Any rights acquired by [1][the Central Government] in respect of expenses incurred in protecting or preserving a monument shall not be affected by the termination of an agreement under this section.

Owners under disability or not in possession.

6. (*1*) If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 5.

(*2*) In the case of village-property, the headman or other village-officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 5.

(*3*) Nothing in this section shall be deemed to empower any person not being of the same religion as the persons on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

Enforcement of agreement.

7. (*1*) If the Collector apprehends that the owner or occupier of a monument intends to destroy, remove, alter, deface, or imperil the monument or to build on or near the site thereof in contravention of the terms of an agreement for its preservation under section 5, the Collector may make an order prohibiting any such contravention of the agreement.

(*2*) If an owner or other person who is bound by an agreement for the preservation or maintenance of a monument under section 5 refuses to do any act which is in the opinion of the Collector necessary to such preservation or maintenance, or neglects to do any such act within such reasonable time as may be fixed by the Collector, the Collector may authorize any person to do any such act, and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner as if it were an arrear of land-revenue.

(*3*) A person aggrieved by an order made under this section may appeal to the Commissioner, who may cancel or modify it and whose decision shall be final.

Purchasers at certain sales and persons claiming through owner bound

8. Every person who purchases, at a sale for arrears of land-revenue or any other public demand, or at a sale made under the Bengal Patni Taluks Regulation, 1819, an estate or tenure in which is situated a monument in respect of which any instrument has been executed by the owner for the time being, under section 4 or section 5, and every person

Ben. Reg. VIII of 1819.

[1] Subs. by the A. O. for "Govt.".

claiming any title to a monument from, through or under an owner who executed any such instrument, shall be bound by such instrument. by instrument executed by owner.

9. (*1*) If any owner or other person competent to enter into an agreement under section 5 for the preservation of a protected monument, refuses or fails to enter into such an agreement when proposed to him by the Collector, and if any endowment has been created for the purpose of keeping such monument in repair, or for that purpose among others, the Collector may institute a suit in the Court of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge for the proper application of such endowment or part thereof. Application of endowment to repair of an ancient monument.

(*2*) On the hearing of an application under sub-section (*1*), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary, and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were the decree of a Civil Court.

10. (*1*) If the [1][Central Government] apprehends that a protected monument is in danger of being destroyed, injured or allowed to fall into decay, [2][the Central Government may direct the Provincial Government to acquire it] under the provisions of the Land Acquisition Act, 1894, as if the preservation of a protected monument were a "public purpose" within the meaning of that Act. Compulsory purchase of ancient monument.

I of 1894.

(*2*) The powers of compulsory purchase conferred by sub-section (*1*) shall not be exercised in the case of—

(*a*) any monument which or any part of which is periodically used for religious observances ; or

(*b*) any monument which is the subject of a subsisting agreement executed under section 5.

(*3*) In any case other than the cases referred to in sub-section (*2*) the said powers of compulsory purchase shall not be exercised unless the owner or other person competent to enter into an agreement under section 5 has failed, within such reasonable period as the Collector may fix in this behalf, to enter into an agreement proposed to him under the said section or has terminated or given notice of his intention to terminate such an agreement.

[3][**10A.** (*1*) If the [1][Central Government] is of opinion that mining, quarrying, excavating, blasting and other operations of a like nature should be restricted or regulated for the purpose of protecting or preserving Power of Central Government to control

1 Subs. by the A. O. for "L. G.".
2 Subs. by the A. O. for "the L. G. may proceed to acquire it".
3 S. 10A ins. by the Ancient Monuments Preservation (Amendment) Act, 1932 (18 of 1932), s. 2.

mining, etc., near ancient monument.

any ancient monument, the [1][Central Government] may, by notification in the [2][Official Gazette], make rules—

(*a*) fixing the boundaries of the area to which the rules are to apply,

(*b*) forbidding the carrying on of mining, quarrying, excavating, blasting or any operation of a like nature except in accordance with the rules and with the terms of a licence, and

(*c*) prescribing the authority by which, and the terms on which, licences may be granted to carry on any of the said operations.

(*2*) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(*3*) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(*4*) If any owner or occupier of land included in a notification under sub-section (*1*) proves to the satisfaction of the [1][Central Government] that he has sustained loss by reason of such land being so included, the [1][Central Government] shall pay compensation in respect of such loss.]

Maintenance of certain protected monuments.

11. (*1*) The Commissioner shall maintain every monument in respect of which the Government has acquired any of the rights mentioned in section 4 or which the Government has acquired under section 10.

(*2*) When the Commissioner has accepted the guardianship of a monument under section 4, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting the monument, and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

Voluntary contributions.

12. The Commissioner may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him :

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

Protection of place of worship from misuse, pollution or desecration.

13. (*1*) A place of worship or shrine maintained by the Government under this Act shall not be used for any purpose inconsistent with its character.

(*2*) Where the Collector has, under section 4, purchased or taken a lease of any protected monument, or has accepted a gift or bequest, or

[1] Subs. by the A. O. for "L. G.".
[2] Subs. by the A. O. for "local official Gazette".

the Commissioner has, under the same section, accepted the guardianship thereof, and such monument, or any part thereof, is periodically used for religious worship or observances by any community, the Collector shall make due provision for the protection of such monument, or such part thereof, from pollution or desecration—

(*a*) by prohibiting the entry therein, except in accordance with conditions prescribed with the concurrence of the persons in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or

(*b*) by taking such other action as he may think necessary in this behalf.

Relinquishment of Government rights in a monument.

14. With the sanction of [1][the Central Government], the Commissioner may—

(*a*) where rights have been acquired by [2][the Central Government] in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument if such rights had not been acquired ; or

(*b*) relinquish any guardianship of a monument which he has accepted under this Act.

Right of access to certain protected monuments.

15. (*1*) Subject to such rules as may after previous publication be made by [1][the Central Government], the public shall have a right of access to any monument maintained by [3][the Central Government] under this Act.

(*2*) In making any rule under sub-section (*1*) [1][the Central Government] may provide that a breach of it shall be punishable with fine which may extend to twenty rupees.

Penalties.

16. Any person other than the owner who destroys, removes, injures, alters, defaces or imperils a protected monument, and any owner who destroys, removes, injures, alters, defaces or imperils a monument maintained by [2][the Central Government] under this Act or in respect of which an agreement has been executed under section 5, and any owner or occupier who contravenes an order made under section 7, sub-section (*1*), shall be punishable with fine which may extend to five thousand rupees, or with imprisonment which may extend to three months, or with both.

---

1 Subs. by the A. O. for "the L. G.".
2 Subs. by the A. O. for "Govt.".
3 Subs. by the A. O. for "the Govt.".

(Traffic in Antiquities. Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects.)

Traffic in Antiquities.

Power to Central Government to control traffic in antiquities.

17. (*1*) If the [1][Central Government] apprehends that antiquities are being sold or removed to the detriment of India or of any neighbouring country, [2][it] may, by notification[3] in the [4][Official Gazette], prohibit or restrict the bringing or taking by sea or by land of any antiquities or class of antiquities described in the notification into or out of ~~British India~~ or any specified part of ~~British India~~.

(*2*) Any person who brings or takes or attempts to bring or take any such antiquities into or out of ~~British India~~ or any part of ~~British India~~ in contravention of a notification issued under sub-section (*1*), shall be punishable with fine which may extend to five hundred rupees.

(*3*) Antiquities in respect of which an offence referred to in sub-section (*2*) has been committed shall be liable to confiscation.

(*4*) An officer of Customs, or an officer of Police of a grade not lower than Sub-Inspector, duly empowered by the [5][Central Government] in this behalf, may search any vessel, cart or other means of conveyance, and may open any baggage or package of goods, if he has reason to believe that goods in respect of which an offence has been committed under sub-section (*2*) are contained therein.

(*5*) A person who complains that the power of search mentioned in sub-section (*4*) has been vexatiously or improperly exercised may address his complaint to the [5][Central Government], and the [5][Central Government] shall pass such order and may award such compensation, if any, as appears to it to be just.

Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects.

Power to Central Government to control moving of sculptures,

18. (*1*) If [6][the Central Government] considers that any sculptures, carvings, images, bas-reliefs, inscriptions or other like objects ought not to be moved from the place where they are without the sanction of [7][the Central Government], [6][the Central Government] may, by notification[8]

1 Subs. by the A. O., for "G. G. in C.".
2 Subs. by the A. O., for "he".
3 *See* notification No. 110, dated 28th May, 1917, Gazette of India, 1917, Part I, p. 989, and notification No. 1385, dated 8th July 1924, Gazette of India, 1924, Pt. I, p. 641 ; Gen. R. & O., Vol. III.
4 Subs. by the A. O., for "Gazette of India".
5 Subs. by the A. O., for "L. G.".
6 Subs. by the A. O., for "the L. G.".
7 Subs. by the A. O., for "the Govt.".
8 For notification under this section, issued before the 1st April, 1937, by the Government of—
(1) Bengal, *see* Calcutta Gazette, 1908, Pt. I, p. 1248, and *ibid.*, 1909, Pt. I, p. 23 ; and p. 957 as to Gaya District.
(2) Central Provinces, *see* C. P. Gazette, 1906, Pt. III, p. 616.
(3) N.-W. F. P., *see* Gazette of India, 1909, Pt. II, p. 1554.

(*Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects. Archaeological Excavation.*)

in the [1][Official Gazette], direct that any such object or any class of such objects shall not be moved unless with the written permission of the Collector. carvings or like objects.

(*2*) A person applying for the permission mentioned in sub-section (*1*) shall specify the object or objects which he proposes to move, and shall furnish, in regard to such object or objects, any information which the Collector may require.

(*3*) If the Collector refuses to grant such permission, the applicant may appeal to the Commissioner, whose decision shall be final.

(*4*) Any person who moves any object in contravention of a notification issued under sub-section (*1*), shall be punishable with fine which may extend to five hundred rupees.

(*5*) If the owner of any property proves to the satisfaction of [2][the Central Government] that he has suffered any loss or damage by reason of the inclusion of such property in a notification published under sub-section (*1*), [2][the Central Government] shall either—

(*a*) exempt such property from the said notification ;

(*b*) purchase such property, if it be moveable, at its market-value ; or

(*c*) pay compensation for any loss or damage sustained by the owner of such property, if it be immoveable

19. (*1*) If [2][the Central Government] apprehends that any object mentioned in a notification issued under section 18, sub-section (*1*), is in danger of being destroyed, removed, injured or allowed to fall into decay, [2][the Central Government] may pass orders for the compulsory purchase of such object at its market-value, and the Collector shall thereupon give notice to the owner of the object to be purchased. Purchase of sculptures, carvings or like objects by the Government.

(*2*) The power of compulsory purchase given by this section shall not extend to—

(*a*) any image or symbol actually used for the purpose of any religious observance ; or

(*b*) anything which the owner desires to retain on any reasonable ground personal to himself or to any of his ancestors or to any member of his family.

[3][*Archaeological Excavation.*

20. (*1*) If the [4][Central Government] [5]* * is of opinion that excavation for archæological purposes in any area should be restricted and regulated in the interests of archæological research, the [4][Central Power of Central Government to notify

1 Subs. by the A. O. for "local official Gazette".
2 Subs. by the A. O. for "the L. G.".
3 This heading and ss. 20, 20A, 20B and 20C were subs. by the Ancient Monuments Preservation (Amendment) Act, 1932 (18 of 1932), s. 3, for the original heading and s. 20.
4 Subs. by the A. O. for "G. G. in C.".
5 The words "after consulting the L. G." rep. by the A. O. 1937

areas as protected

Government] may, by notification in the [1][Official Gazette] specifying the boundaries of the area, declare it to be a protected area.

(*2*) From the date of such notification all antiquities buried in the protected area shall be the property of [2][the Crown] and shall be deemed to be in the possession of [2][the Crown], and shall remain the property and in the possession of [2][the Crown] until ownership thereof is transferred ; but in all other respects the rights of any owner or occupier of land in such area shall not be affected.

Power to enter upon and make excavations in a protected area.

20A. (*1*) Any officer of the Archæological Department or any person holding a licence under section 20B may, with the written permission of the Collector, enter upon and make excavations in any protected area.

(*2*) Where, in the exercise of the power conferred by sub-section (*1*), the rights of any person are infringed by the occupation or disturbance of the surface of any land, [3][the Central Government] shall pay to that person compensation for the infringement.

Power of Central Government to make rules regulating archæological excavation in protected areas.

20B. (*1*) The [4][Central Government] may make rules—

(*a*) prescribing the authorities by whom licences to excavate for archæological purposes in a protected area may be granted ;

(*b*) regulating the conditions on which such licences may be granted, the form of such licences, and the taking of security from licensees ;

(*c*) prescribing the manner in which antiquities found by a licensee shall be divided between [2][the Central Government] and the licensee ; and

(*d*) generally to carry out the purposes of section 20.

(*2*) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(*3*) Such rules may be general for all protected areas for the time being, or may be special for any particular protected area or areas.

(*4*) Such rules may provide that any person committing a breach of any rule or of any condition of a licence shall be punishable with fine which may extend to five thousand rupees, and may further provide that where the breach has been by the agent or servant of a licensee the licensee himself shall be punishable.

---

1 Subs. by the A. O. for "Gazette of India".
2 Subs. by the A. O. for "Govt.".
3 Subs. by the A. O. for "the Govt.".
4 Subs. by the A. O. for "G. G. in C.".

20C. If the [1][Central Government] is of opinion that a protected area contains an ancient monument or antiquities of national interest and value, [2][it] may direct the [3][Provincial Government] to acquire such area, or any part thereof, and the [3][Provincial Government] may thereupon acquire such area or part under the Land Acquisition Act, 1894, as for a public purpose.] **Power to acquire a protected area.**

I of 1894.

General.

21. (*1*) The market-value of any property which Government is empowered to purchase at such value under this Act, or the [4]* * compensation to be paid by Government in respect of anything done under this Act, shall, where any dispute arises [5][in respect] of such market-value or compensation, be ascertained in the manner provided by the Land Acquisition Act, 1894, sections 3, 8 to 34, 45 to 47, 51 and 52, so far as they can be made applicable : **Assessment of market-value or compensation.**

I of 1894.

Provided that when making an inquiry under the said Land Acquisition Act, 1894, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the Collector, and one a person nominated by the owner or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.

22. A Magistrate of the third class shall not have jurisdiction to try any person charged with an offence against this Act. **Jurisdiction.**

23. (*1*) The [1][Central Government] [6]* * may make rules[7] for carrying out any of the purposes of this Act. **Power to make rules.**

(*2*) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

24. No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Act. **Protection to public servants acting under Act.**

THE INDIAN UNIVERSITIES ACT, 1904.

CONTENTS.

SECTIONS.

1. Short title and commencement.
2. Interpretation.

---

1 Subs. by the A. O. for "G. G. in C.".
2 Subs. by the A. O. for "he".
3 Subs. by the A. O. for "L. G.".
4 The words "amount of" rep. by the Ancient Monuments Preservation (Amendment) Act, 1932 (18 of 1932), s. 4.
5 Subs. by s. 4, *ibid.*, for "touching the amount".
6 The words "or the L. G." rep. by the A. O.
7 For rules made by the Mad. Govt. before the 1st April 1937, for the decipherment, publication, and custody of Indian inscriptions on stone and copper, *see* Mad. R. and O.

The University.

SECTIONS.

3. Incorporation and powers of the University.
4. Constitution and powers of the Senate.

Fellows.

5. *Ex-officio* Fellows.
6. Ordinary Fellows.
7. Ordinary Fellows elected by registered Graduates.
8. Ordinary Fellows elected by Senates.
9. Election by the Faculties.
10. Nomination by the Chancellor.
11. Vacating of office.

Transitory Provisions.

12. [*Repealed.*]

Honorary Fellows.

13. Honorary Fellows.

Faculties and Syndicate.

14. Faculties.
15. Syndicate.

Degrees.

16. Degrees, diplomas, licenses, titles and marks of honour.
17. Honorary degrees.
18. Cancellation of degrees and the like.

Affiliated Colleges.

19. Certificate required of candidates for examination.
20. Existing Colleges.
21. Affiliation.
22. Extension of affiliation.
23. Inspection and reports.
24. Disaffiliation.

Regulations.

25. Regulations.
26. New body of regulations.

Miscellaneous.

27. Territorial exercise of powers.
28. [*Repealed.*]
29. [*Repealed.*]

THE FIRST SCHEDULE.—*Ex-officio* FELLOWS OF THE UNIVERSITY.
THE SECOND SCHEDULE.—[*Repealed.*]

ACT No. VIII OF 1904.[1]

[*24th March, 1904.*]

An Act to amend the law relating to the Universities ~~of British India~~.

WHEREAS by Acts II, XXII and XXVII of 1857, Act XIX of 1882 and Act XVIII of 1887, Universities were established and incorporated at Calcutta, Bombay, Madras, Lahore and Allahabad ;

And whereas by Act XLVII of 1860 the Universities of Calcutta, Madras and Bombay were empowered to confer such degrees as should be appointed in the manner provided by the Act ;

And whereas by Act I of 1884 the Universities of Calcutta, Madras and Bombay were further empowered to confer the honorary degree of Doctor in the Faculty of Law ;

And whereas it is expedient to amend the law relating to the Universities ~~of British India~~ ;

It is hereby enacted as follows :—

1. (*1*) This Act may be called the Indian Universities Act, 1904 ; and **Short title and commencement.**

(*2*) It shall come into force on such date[2] as the Government may fix in this behalf by notification in the [3][Official Gazette * * *].

2. (*1*) This Act shall be deemed to be part of each of the Acts by which the [4]said five Universities were respectively established and incorporated. **Interpretation**

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 528 ; for Report of the Select Committee, *see ibid.*, 1904, Pt. V, p. 29 ; and for Proceedings in Council, *see ibid.*, 1903, Pt. VI, p. 178 ; *ibid.*, 1904, Pt. VI, pp. 4, 20, 81, 137 and 162.

2 For notification bringing the Act into force—
(*1*) within the territorial limits of the Calcutta University on 1st September, 1904, *see* Gazette of India, 1904, Pt. I, p. 628 ;
(*2*) in Coorg on 9th September, 1904, *see* Coorg District Gazette Extraordinary, dated the 6th September, 1904 ;
(*3*) within the territorial limits of the University of Madras on 9th September, 1904, *see* Fort St. George Gazette, 1904, Pt. IB, p. 616 ;
(*4*) in the Bombay Presidency on 18th July, 1904, *see* Bombay Govt. Gazette, 1904, Pt. I, p. 906 ;
(*5*) in the Punjab on 1st October, 1904, *see* Punjab Gazette, 1904, Pt. I, p. 706 ;
(*6*) in the N.-W. F. P. on 1st October, 1904, *see* Gazette of India, 1904, Pt. II, p. 1095 ;
(*7*) within the territorial limits of the Allahabad University on 1st October, 1904, *see* United Provinces Gazette, 1904, Pt. I, p. 647 ;
(*8*) in British Baluchistan, on 1st October 1904, *see* Gazette of India, 1904, Pt. II, p. 1141.

3 Subs. by the A. O., para. 4 (1), for "Gazette of India or the local official Gazette, as the case may be". Strictly the substitution would read "Official Gazette or the Official Gazette, as the case may be", but the latter words have been omitted as being clearly redundant.

4 The Act has, however, been rep. in its application to the Bombay University by the Bombay University Act, 1928 (Bom. 4 of 1928), s. 52 and Sch.

(*The University.*)

(*2*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the term "College" or "affiliated College" includes any collegiate institution affiliated to or maintained by the University :

[1][(*b*) the expression "the Government" means the Central Government in the case of a University which is a corporation with objects not confined to a single Province, and the Provincial Government in other cases :] and

(*c*) the expressions "the University" and "the Act of Incorporation" and any expression denoting any University, authority or officer or any statute, regulation, rule or by-law of the University shall be construed with reference to each of the said Universities respectively.

The University.

Incorporation and powers of the University.

3. The University shall be and shall be deemed to have been incorporated for the purpose (among others) of making provision for the instruction of students, with power to appoint University Professors and Lecturers, to hold and manage educational endowments, to erect, equip and maintain University libraries, laboratories and museums, to make regulations relating to the residence and conduct of students, and to do all acts, consistent with the Act of Incorporation and this Act, which tend to the promotion of study and research.

Constitution and powers of the Senate.

4. (*1*) Notwithstanding anything contained in the Act of Incorporation, the Body Corporate of the University shall consist of—

(*a*) the Chancellor ;

[2]* * *

(*c*) the Vice-Chancellor ;

(*d*) the *ex-officio* Fellows ; and

(*e*) the Ordinary Fellows—

(i) elected by registered Graduates or by the Senate,

(ii) elected by the Faculties, and

(iii) nominated by the Chancellor.

(*2*) The Ordinary Fellows shall, save as herein otherwise provided, hold office for five years :

Provided that an Ordinary Fellow who has vacated his office may, subject to the provisions of this Act, be elected or nominated to be an Ordinary Fellow.

---

1 Subs. by the A. O. for the original cl. (*b*).

2 Cl. (*b*) which read : "in the case of the University of Calcutta, the Rector ;" was rep. by the Calcutta University Act, 1921 (7 of 1921), s. 4 and Sch.

3 (b) the expression " the Government means the Provincial Government: and)

(*The University. Fellows.*)

(*3*) The Body Corporate shall be the Senate of the University, and all powers which are by the Act of Incorporation or by this Act conferred upon the Senate, or upon the Chancellor, Vice-Chancellor and Fellows in their corporate capacity, [1]* * * shall be vested in, and exercised by, the Senate constituted under this Act, and all duties and liabilities imposed upon the University by the Act of Incorporation shall be deemed to be imposed upon the Body Corporate as constituted under this Act.

(*4*) No act done by the University shall be deemed to be invalid merely by reason of any vacancy among either class of elected Ordinary Fellows, or by reason of the total number of Ordinary Fellows or of members of the profession of education to be included among Ordinary Fellows, being less than the minimum prescribed by this Act.

Fellows.

Ex-officio Fellows.

5. (*1*) Notwithstanding anything contained in the Act of Incorporation, the persons for the time being performing the duties of the offices mentioned in the list contained in the first schedule to this Act or added to the said list under sub-section (*2*) shall be the *ex-officio* Fellows of the University.

(*2*) The Government may, by notification published [2]* * * in the [3][Official Gazette], [4]* * * make additions to, or alterations in, the list of offices contained in the said schedule :

Provided that the number of *ex-officio* Fellows shall not exceed ten.

Ordinary Fellows.

6. (*1*) In the case of the ~~Universities of Calcutta~~ [5]* and [6]*, the number of Ordinary Fellows shall not be less than fifty nor exceed one hundred ; and of such number—

(*a*) ten shall be elected by registered Graduates :

(*b*) ten shall be elected by the Faculties ; and

(*c*) the remainder shall be nominated by the Chancellor.

---

1 The words "or, in the case of the University of Calcutta, upon the Chancellor, Rector, Vice-Chancellor and Fellows in their corporate capacity" rep. by the Calcutta University Act, 1921 (7 of 1921), s. 4 and Sch.

2 The words "in the Gazette of India or" rep., *ibid.*

3 Subs. by the A. O. for "local official Gazette".

4 The words "as the case may be" rep. by Act 7 of 1921, s. 4 and Sch.

5 The word "Bombay" rep. by the Bombay University Act, 1928 (Bom. 4 of 1928), s. 52 and Sch.

6 The word "Madras" rep. by the Madras University Act, 1923 (Mad. 7 of 1923), s. 55 and Sch. II.

(*Fellows.*)

(*2*) In the case of the Universities of the Punjab [1]* * *, the number of Ordinary Fellows shall not be less than forty nor exceed seventy-five ; and of such number—

(*a*) ten shall be elected by the Senate or by registered Graduates ;

(*b*) five shall be elected by the Faculties ; and

(*c*) the remainder shall be nominated by the Chancellor.

[2]* * * * * * *

(*3*) The election of any Ordinary Fellow shall be subject to the approval of the Chancellor.

(*4*) Elections of Ordinary Fellows by the Faculties and nominations of such Fellows by the Chancellor under this section shall be made in such manner as to secure that not less than two-fifths of the Fellows so elected and so nominated respectively shall be persons following the profession of education.

Ordinary Fellows elected by registered Graduates.

7. (*1*) Once in every year, on such date as the Chancellor may appoint in this behalf, there shall, if necessary, be an election to fill any vacancy among the Ordinary Fellows elected by registered Graduates.

(*2*) The Syndicate shall maintain a register on which any Graduate who—

(*a*) has taken the degree of Doctor or Master in any Faculty, or

(*b*) has graduated in any Faculty not less than ten years before registration,

shall, subject to the payment of an initial fee of such amount as may be prescribed by the regulations, be entitled to have his name entered upon application made within the period of three years from the commencement of this Act or of one year from the date on which he becomes so entitled :

Provided that, if such application is made after the expiry of either of the said periods, the applicant shall be entitled to have his name entered on payment of the said initial fee, and of such further sum as may be prescribed by the regulations.

(*3*) The name of any Graduate entered on the register shall, subject to the payment of an annual fee of such amount as may be prescribed by the regulations, be retained thereon, and, in case of default, shall be removed therefrom, but shall, at any time, be re-entered upon payment of all arrears :

Provided that a Graduate whose name has been already entered on the register may at any time compound for all subsequent payments of the annual fee by paying the sum prescribed in this behalf by the regulations.

---

1 The words "and Allahabad" rep. by the Allahabad University Act, 1921 (U. P. 3 of 1921), s. 55 and Sch. II.

2 The proviso, which had been ins. by the Indian Universities (Amendment) Act, 1911 (11 of 1911), was rep. by U. P. Act 3 of 1921.

(*Fellows. Transitory Provisions. Honorary Fellows.*)

(*4*) No person other than a Graduate whose name is entered on the said register shall be qualified to vote or to be elected at an election held under sub-section (*1*).

(*5*) A Graduate registered under this section shall be entitled to such further privileges as may be determined by the regulations.

8. (*1*) The provisions of section 7 shall not apply ~~to the University of the Punjab or~~ to the University of Allahabad until the [1][Government], ~~and~~ by notification in the [3][Official Gazette], so directs ; and until such time the Ordinary Fellows of the said Universities, who would be elected by registered Graduates if the said provisions were in force, shall be elected by the Senate. Ordinary Fellows elected by Senates.

(*2*) In the case of ~~the University of the Punjab and~~ the University of Allahabad, there shall, if necessary, be an election, once in every year, on such date as the Chancellor may appoint in this behalf, to fill any vacancy among the Ordinary Fellows elected by the Senate.

9. (*1*) Once in every year, on such date as the Chancellor may appoint in this behalf, there shall, if necessary, be an election to fill any vacancy among the Ordinary Fellows elected by the Faculties. Election by the Faculties.

(*2*) An election under sub-section (*1*) shall be held, subject to such directions prescribing the qualifications of the persons to be elected as may, from time to time, be given by the Chancellor, with a view to secure the return of duly qualified persons and the fair representation of different branches of study in the Senate.

10. Subject to the provisions of section 6, the Chancellor may nominate any number of fit and proper persons to be Ordinary Fellows. Nomination by the Chancellor.

11. (*1*) Any Ordinary Fellow may, by letter addressed to the Chancellor, resign his office. Vacating of office.

(*2*) Where any Ordinary Fellow has not attended a meeting of the Senate, other than a Convocation, during the period of one year, the Chancellor may declare his office to be vacated.

Transitory Provisions.

12. [*Election and nomination of Ordinary Fellows within one year after commencement of Act, and temporary continuance of existing University administration.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

Honorary Fellows.

13. (*1*) (*a*) A Fellow holding office at the commencement of this Act shall cease to be a Fellow. Honorary Fellows.

---

1 Subs. by the A. O. for "Chancellor, with the previous sanction of the G. G. in C.".

2 *Sic.* The word "and" appears in the section as passed by the Legislature, but, after the substitution made by the A. O. it is meaningless.

3 Subs. by the A. O. for "local official Gazette".

(*Honorary Fellows. Faculties and Syndicate.*)

(*b*) Where a Fellow included in clause (*a*) does not become a Fellow under this Act, he shall be an Honorary Fellow for life.

(*c*) Where a Fellow included in clause (*a*) becomes a Fellow under this Act, he shall, whenever and so often as he ceases to be a Fellow under this Act, become an Honorary Fellow as provided in clause (*b*).

(*2*) The Chancellor may nominate any person to be an Honorary Fellow for life, who is eminent for his attainments in any branch of learning, or is an eminent benefactor of the University, or is distinguished for services rendered to the cause of education generally.

(*3*) Notwithstanding anything contained in this section, any Fellow who at the commencement of this Act is entitled as such to vote for the election of any person to be a member of any Council for the purpose of making laws and regulations or of any local authority shall continue to be so entitled as if this Act had not been passed.

Faculties and Syndicate.

Faculties.

14. (*1*) Nothing contained in the Act of Incorporation shall be deemed to prohibit the constitution of a new Faculty or the abolition or reconstitution of any existing Faculty by the Senate under regulations made in accordance with the provisions of this Act.

(*2*) Regulations made under sub-section (*1*) may—

(*a*) provide for the assignment of Fellows to the several Faculties by order of the Senate ; and

(*b*) empower the Fellows so assigned to add to their number, in such manner and for such period as may be prescribed, Graduates in the Faculty and other persons possessing special knowledge of the subjects of study represented by the Faculty :

Provided that the number of persons so to be added to the Faculty shall not exceed half the number of Fellows assigned to the Faculty.

(*3*) A person added to a Faculty under sub-section (*2*), clause (*b*), shall have the right to take part in the ordinary business of the Faculty, and in any election of an Ordinary Fellow by the Faculty, but shall not be entitled to take part in the election of the Syndicate.

Syndicate.

15. (*1*) The executive government of the University shall be vested in the Syndicate, which shall consist of—

(*a*) the Vice-Chancellor as Chairman ;

(*b*) the Director of Public Instruction for the Province in which the headquarters of the University are situated ; and, in the case of the University of Allahabad, also the Director of Public Instruction in the Central Provinces ; and

(*Faculties and Syndicate. Degrees. Affiliated Colleges.*)

(*c*) not less than seven or more than fifteen *ex-officio* or Ordinary Fellows elected by the Senate or by the Faculties in such manner as may be provided by the regulations, to hold office for such period as may be prescribed by the regulations.

(*2*) The regulations referred to in sub-section (*1*) shall be so framed as to secure that a number not falling short by more than one of a majority of the elected members of the Syndicate shall be Heads of, or Professors in, Colleges affiliated to the University.

(*3*) If in the case of any election the question is raised whether any person is or is not a Professor within the meaning of sub-section (*2*), the question shall be decided by the Senate.

Degrees.

16. The Senate may institute and confer such degrees, and grant such diplomas, licenses, titles and marks of honour in respect of degrees and examinations as may be prescribed by regulation.

Degrees, diplomas, licenses, titles and marks of honour.

17. Where the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate recommend that an honorary degree be conferred on any person on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree and where their recommendation is supported by not less than two-thirds of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the Senate may confer on such person the honorary degree so recommended without requiring him to undergo any examination.

Honorary degrees.

18. Where evidence is laid before the Syndicate showing that any person on whom a degree, diploma, license. title or mark of honour is conferred or granted by the Senate has been convicted of what is, in their opinion, a serious offence, the Syndicate may propose to the Senate that the degree, diploma, license, title or mark of honour be cancelled, and, if the proposal is accepted by not less than two-thirds of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the degree, diploma, license, title or mark of honour shall be cancelled accordingly.

Cancellation of degrees and the like.

Affiliated Colleges.

19. Save on the recommendation of the Syndicate, by special order of the Senate, and subject to any regulations made in this behalf, no person shall be admitted as a candidate at any University examination, other than an examination for matriculation, unless he produces a certificate from a College affiliated to the University, to the effect that he has completed the course of instruction prescribed by regulation.

Certificate required of candidates for examination.

(*Affiliated Colleges.*)

Existing Colleges.

20. Any College affiliated to the University before the passing of this Act may continue to exercise the rights conferred upon it by such affiliation, save in so far as such rights may be withdrawn or restricted in the exercise of any power conferred by the Act of Incorporation or by this Act.

Affiliation.

21. (*1*) A College applying for affiliation to the University shall send a letter of application to the Registrar, and shall satisfy the Syndicate—

(*a*) that the College is to be under the management of a regularly constituted governing body ;

(*b*) that the qualifications of the teaching staff and the conditions governing their tenure of office are such as to make due provision for the courses of instruction to be undertaken by the College ;

(*c*) that the buildings in which the College is to be located are suitable, and that provision will be made, in conformity with the regulations, for the residence, in the College or in lodgings approved by the College, of students not residing with their parents or guardians, and for the supervision and physical welfare of students ;

(*d*) that due provision has been or will be made for a library ;

(*e*) where affiliation is sought in any branch of experimental science, that arrangements have been or will be made in conformity with the regulations for imparting instruction in that branch of science in a properly equipped laboratory or museum ;

(*f*) that due provision will, so far as circumstances may permit, be made for the residence of the Head of the College and some members of the teaching staff in or near the College or the place provided for the residence of students ;

(*g*) that the financial resources of the College are such as to make due provision for its continued maintenance ;

(*h*) that the affiliation of the College, having regard to the provision made for students by other Colleges in the same neighbourhood, will not be injurious to the interests of education or discipline ; and

(*i*) that the College rules fixing the fees (if any) to be paid by the students have not been so framed as to involve such competition with any existing College in the same neighbourhood as would be injurious to the interests of education.

The application shall further contain an assurance that after the College is affiliated any transference of management and all changes in the teaching staff shall be forthwith reported to the Syndicate.

(*Affiliated Colleges.*)

(*2*) On receipt of a letter of application under sub-section (*1*), the Syndicate shall—

(*a*) direct a local inquiry to be made by a competent person authorized by the Syndicate in this behalf ;

(*b*) make such further inquiry as may appear to them to be necessary ; and

(*c*) report to the Senate on the question whether the application should be granted or refused, either in whole or in part, embodying in such report the results of any inquiry under clauses (*a*) and (*b*).

And the Senate shall, after such further inquiry (if any) as may appear to them to be necessary, record their opinion on the matter.

(*3*) The Registrar shall submit the application and all proceedings of the Syndicate and Senate relating thereto to the Government, who, after such further inquiry as may appear to them to be necessary, shall grant or refuse the application or any part thereof.

(*4*) Where the application or any part thereof is granted, the order of the Government shall specify the courses of instruction in respect of which the College is affiliated ; and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.

(*5*) An application under sub-section (*1*) may be withdrawn at any time before an order is made under sub-section (*3*).

Extension of affiliation.

22. Where a College desires to add to the courses of instruction in respect of which it is affiliated, the procedure prescribed by section 21 shall, so far as may be, be followed.

Inspection and reports.

23. (*1*) Every College affiliated to the University, whether before or after the commencement of this Act, shall furnish such reports, returns and other information as the Syndicate may require to enable it to judge of the efficiency of the College.

(*2*) The Syndicate shall cause every such College to be inspected from time to time by one or more competent persons authorized by the Syndicate in this behalf.

(*3*) The Syndicate may call upon any College so inspected to take, within a specified period, such action as may appear to them to be necessary in respect of any of the matters referred to in section 21, sub-section (*1*).

Disaffiliation.

24 (*1*) A member of the Syndicate who intends to move that the rights conferred on any College by affiliation be withdrawn, in whole or in part, shall give notice of his motion, and shall state in writing the grounds on which the motion is made.

(*Affiliated Colleges. Regulations.*)

(*2*) Before taking the said motion into consideration, the Syndicate shall send a copy of the notice and written statement mentioned in sub-section (*1*) to the Head of the College concerned, together with an intimation that any representation in writing submitted within a period specified in such intimation on behalf of the College will be considered by the Syndicate :

Provided that the period so specified may, if necessary, be extended by the Syndicate.

(*3*) On receipt of the representation or on expiration of the period referred to in sub-section (*2*), the Syndicate, after considering the notice of motion, statement and representation and after such inspection by any competent person authorized by the Syndicate in this behalf, and such further inquiry as may appear to them to be necessary, shall make a report to the Senate.

(*4*) On receipt of the report under sub-section (*3*), the Senate shall, after such further inquiry (if any) as may appear to them to be necessary, record their opinion on the matter.

(*5*) The Registrar shall submit the proposal and all proceedings of the Syndicate and Senate relating thereto to the Government, who, after such further inquiry (if any) as may appear to them to be necessary, shall make such order as the circumstances may, in their opinion, require.

(*6*) Where by an order made under sub-section [1][(*5*)] the rights conferred by affiliation are withdrawn, in whole or in part, the grounds for such withdrawal shall be stated in the order.

Regulations.

Regulations.

25. (*1*) The Senate, with the sanction of the Government, may from time to time make regulations consistent with the Act of Incorporation as amended by this Act and with this Act to provide for all matters relating to the University.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(*a*) the procedure to be followed in holding any election of Ordinary Fellows ;

(*b*) the constitution, reconstitution or abolition of Faculties, the proportion in which the members, other than the *ex-officio* members, of the Syndicate shall be elected to represent the various Faculties, and the mode in which such election shall be conducted ;

---

1 Subs. by the Repealing and Amending Act, 1914 (10 of 1914), s. 2 and Sch. I, for " (*3*) ".

(*Regulations.*)

(*c*) the procedure at meetings of the Senate, Syndicate and Faculties and the quorum of members to be required for the transaction of business ·

(*d*) the appointment of Fellows and others to be members of Boards of Studies, and the procedure of such Boards and the quorum of members to be required for the transaction of business ;

(*e*) the appointment and duties of the Registrar and of officers and servants of the University, and of Professors and Lecturers appointed by the University ;

(*f*) the appointment of Examiners, and the duties and powers of Examiners in relation to the examinations of the University ;

(*g*) the form of the certificate to be produced by a candidate for examination under section 19 and the conditions on which any such certificate may be granted ;

(*h*) the registers of graduates and students to be kept by the University, and the fee (if any) to be paid for the entry or retention of a name on any such register ;

(*i*) the inspection of Colleges and the reports, returns and other information to be furnished by Colleges ;

(*j*) the registers of students to be kept by Colleges affiliated to the University ;

(*k*) the rules to be observed and enforced by Colleges affiliated to the University in respect of the transfer of students ;

(*l*) the fees to be paid in respect of the courses of instruction given by Professors or Lecturers appointed by the University ;

(*m*) the residence and conduct of students ;

(*n*) the courses of study to be followed and the conditions to be complied with by candidates for any University examination, other than an examination for matriculation, and for degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University ;

(*o*) the conditions to be complied with by schools desiring recognition for the purpose of sending up pupils as candidates for the matriculation examination and the conditions to be complied with by candidates for matriculation, whether sent up by recognised schools or not ;

(*p*) the conditions to be complied with by candidates, not being students of any College affiliated to the University, for degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University ; and

(*Regulations. Miscellaneous.*)

(*q*) the alteration or cancellation of any rule, regulation, statute or by-law of the University in force at the commencement of this Act.

New body of regulations.

26. (*1*) Within one year after the commencement of this Act, or within such further period as the Government may fix in this behalf,—

(*a*) the Senate as constituted under this Act shall cause a revised body of regulations to be prepared and submitted for the sanction of the Government ;

(*b*) if any additions to, or alterations in, the draft submitted appear to the Government to be necessary, the Government, after consulting the Senate, may sanction the proposed body of regulations, with such additions and alterations as appear to the Government to be necessary.

(*2*) Where a draft body of regulations is not submitted by the Senate within the period of one year after the commencement of this Act, or within such further period as may be fixed under sub-section (*1*), the Government may, within one year after the expiry of such period or of such further period, make regulations which shall have the same force as if they had been prepared and sanctioned under sub-section (*1*).

Miscellaneous.

Territorial exercise of powers.

27. The [1][Government] may, by general or special order, [2]define the territorial limits within which, and specify the Colleges in respect of which, any powers conferred by or under the Act of Incorporation or this Act shall be exercised :

[3][Provided that if the effect of any such order would be either—

(*a*) to confine to one Province the powers of a University whose powers would, but for the order, not be so confined ; or

(*b*) to extend beyond one Province the powers of a University whose powers previously were restricted to one Province,

the order may only be made jointly by the Central Government and the Governments of all the Provinces affected.]

28. [*Rector.*] *Rep. by the Calcutta University Act, 1921 (VII of 1921), s. 4 and Sch.*

29. [*Repeals.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s 3 and Sch. II.*

as amended by A.O. (Amendt.) order, 1940 (?)

1 Subs. by the A. O. for "G. G. in C.".

2 For order defining the territorial limits of the Universities of Calcutta and the Punjab, *see* Gazette of India, 1904, Pt. I, p. 627 and Gen. R. and O., Vol. III, p. 403.

3 Ins. by the A. O.

(*The First Schedule.*—Ex-officio *Fellows of the University. The Second Schedule.*)

THE FIRST SCHEDULE.

(*Section 5.*)

Ex-officio FELLOWS OF THE UNIVERSITY.

The University of Calcutta.

[1][His Excellency the Governor of Assam, Shillong.

The Chief Justice of the High Court of Judicature at ~~Fort William in Bengal~~.

Lord Bishop of Calcutta and Metropolitan of India.

~~The Member of the Council of~~ [2][or Minister of] the Governor-General in charge of the Department of Education.

The [3][Minister of the Governor of ~~Bengal~~] in charge of the Department of Education.

The Minister for Education, Assam.

The Secretary to the Government of ~~Bengal,~~ Education Department.

The Director of Public Instruction, ~~Bengal~~.

The Director of Public Instruction, Assam.

The Principal, Presidency College, Calcutta.]

[4]* * * * *

~~*The University of the Punjab*~~.

~~The [5]Chief Judge of the [6][High Court at Lahore]~~.

The Bishop of Lahore.

The Director of Public Instruction in the Punjab.

The representatives of such Chiefs (if any) of territories not comprised in British India as the [7][Government] may, by notification in the ~~local official Gazette, specify in this be~~half.

[8]* * * * * * *

THE SECOND SCHEDULE—[*Enactments repealed.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

---

1 Subs. for the original entries (as amended from time to time) by the notification of the Govt of Bengal (Ministry of Education), No. 145-T.Edn., dated the 4th May, 1926 ; *see* Calcutta Gazette, 1926, Pt. I, p. 668.

2 Ins. by the A. O.

3 Subs by the A. O. for "Member of the Executive Council of the Govt. of Bengal or the Minister appointed by the Governor to be".

4 The heading "The University of Madras" and the entries thereunder were rep. by the Madras University Act, 1923 (Mad 7 of 1923), s. 55 and Sch. II ; and the heading "The University of Bombay" and the entries thereunder were rep. by the Bombay University Act, 1928 (Bom. 4 of 1928), s 52 and Sch

5 *Sic* Should be read as referring to the Chief Justice.

6 Subs by the A. O. for "Chief Court of the Punjab"

7 Subs by the A. O. for "L G.".

8 The heading "The University of Allahabad" and the entries thereunder were

The words " Chief Justice of the High Court at Lahore" were substituted for the words"Chief Judge of the Chief Court of the Punjab" by A.O. as amended by A.O.(Amendt.) order,1940(from 1.4.40) 1937

THE INDIAN RAILWAY BOARD ACT, 1905.

ACT No. IV OF 1905.[1]

[*22nd March, 1905.*]

An Act to provide for investing the Railway Board with certain powers or functions under the Indian Railways Act, 1890.

WHEREAS a Railway Board has been constituted for controlling the administration of railways in India, and it is expedient to provide for investing such Board with certain powers or functions under the Indian Railways Act, 1890 ; It is hereby enacted as follows :— IX of 1890.

Short title and construction.

1. (*1*) This Act may be called the Indian Railway Board Act, 1905 ; and

(*2*) It shall be read with, and taken as part of, the Indian Railways Act, 1890. IX of 1890.

Investment of Railway Board with powers under Indian Railways Act, 1890.

2. The [2][Central Government] may, by [3]notification in the [4][Official Gazette], invest the Railway Board, either absolutely or subject to conditions,—

(*a*) with all or any of the powers or functions of the [2][Central Government] under the Indian Railways Act, 1890, with respect to all or any railways, and IX of 1890.

(*b*) with the power of the officer referred to in section 47 of the said Act to make general rules for railways administered by the Government.

Mode of signifying communications from the Railway Board.

3. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction, to be given or signified on the part of the Railway Board, for any of the purposes of, or in relation to, any powers or functions with which it may be invested by notification under section 2, shall be sufficient and binding if in writing signed by the Secretary to the Railway Board, or by any other person authorized by the said Railway Board to act in its behalf in respect of the matters to which such authorization may relate ; and the said Railway Board shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1905, Pt. V, p. 16, and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 36 and 44.

This Act has been extended to that portion of the Sind-Pishin section of the N.-W. Railway that lies beyond the Province of Sind, *see* Gazette of India, 1905, Pt. I, p. 692. It has been declared to be in force in the Sonthal Parganas by notification under s. 3 (*3*) (*a*) of the Sonthal Parganas Settlement Regulation (3 of 1872), *see* Calcutta Gazette, 1906, Pt. I, p. 334 ; and in British Baluchistan under s. 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913).

2 Subs. by the A. O. for "G. G. in C.".

3 For notifications, *see* Gen. R. and O. ; Gazette of India, 1907, Pt. I, p. 273 ; *ibid.*, 1908, Pt. I, p. 169.

4 Subs. by the A. O. for "Gazette of India".

[1] [~~4. On the establishment of the Federal Railway Authority, the Railway Board shall cease to exist and any notification issued under section 2 of this Act shall cease to have effect, without prejudice, however, to the validity of anything previously done in pursuance thereof.~~] Cessation of Railway Board on establishment of Federal Railway Authority.

THE INDIAN COINAGE ACT, 1906.

CONTENTS.

Preliminary.

SECTIONS.

1. Short title and extent.
2. Definitions.
3. Power to establish and abolish Mints.

Silver Coinage.

4. Silver coins.
5. Standard weight and fineness.

Nickel Coinage.

6. Nickel coins.
7. Standard weight.

Bronze Coinage.

8. Bronze coins.
9. Standard weight and composition.

Dimensions and Designs of Coins.

10. Power to direct coining, and to prescribe dimensions and designs.

Legal Tender.

11. Demonetization of sovereign and half-sovereign.
12. Silver coin when a legal tender.
13. Nickel coin when a legal tender.
14. Bronze coin when a legal tender.
15. Coin made under former Acts.

15A. Power to call in coin.

Diminished, Defaced and Counterfeit Coins.

16. Power to certain persons to cut diminished or defaced silver coins.
17. Procedure in regard to coin cut under section 16 (*a*).
18. Procedure in regard to coin cut under section 16 (*b*).

---

1 S. 4 ins. by the A. O. 1937

(*Preliminary.*)

SECTIONS.

19. Procedure in regard to coin which is liable to be cut under both clause (*a*) and clause (*b*) of section 16.

20. Power to certain persons to cut counterfeit silver or nickel coin and procedure in regard to coin so cut.

Supplemental Provisions.

21. Power to make rules.

22. Bar of suits.

23. Saving of making of other coins at Mints.

24. Saving of copper coins.

THE SCHEDULE.—[*Repealed.*]

Fifteen Edition
Appt. Part II.

ACT No. III OF 1906.[1]

[*2nd March, 1906.*]

An Act to consolidate and amend the law relating to Coinage and the Mint.

WHEREAS it is expedient to consolidate and amend the law relating to Coinage and the Mint : It is hereby enacted as follows :—

Preliminary.

Short title and extent.

1. (*1*) This Act may be called the Indian Coinage Act, 1906 ; and

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "deface", with its grammatical variations and cognate expressions, includes clipping, filing, stamping, or such other alteration of the surface or shape of a coin as is readily distinguishable from the effects of reasonable wear ;

(*b*) "the Mint" includes the Mints now existing and any which may hereafter be established ;

(*c*) "prescribed" includes prescribed by a rule made under this Act ;

(*d*) "remedy" means variation from the standard weight and fineness ; and

---

1 For Statement of Objects and Reasons, *see* Gazette of India, 1905, Part V, p. 32 ; for Report of the Select Committee, *see ibid.*, 1906, Part V, p. 9 ; and for Proceedings in Council, *see ibid.*, 1905, Part VI, p. 142 ; *ibid.*, 1906, Part VI, p. 28.

This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

(*Preliminary. Silver Coinage. Nickel Coinage.*)

(*e*) "standard weight" means the weight prescribed for any coin.

3. The [1][Central Government] may, by notification in the [2][Official Gazette],— **Power to establish and abolish Mints.**

(*a*) establish a Mint at any place at which a Mint does not for the time being exist ; and

(*b*) abolish any Mint, whether now existing or hereafter established.

Silver Coinage.

4. The following silver coins only shall be coined at the Mint for issue under the authority of the [1][Central Government], namely :— **Silver coins.**

(*a*) a rupee to be called the Government rupee ;

(*b*) a half-rupee [3]* * * ;

(*c*) a quarter-rupee [4]* * *.

[5]* * * * *

5. (*1*) The standard weight of the Government rupee shall be one hundred and eighty grains Troy, and its standard fineness shall be as follows, namely, eleven-twelfths, or one hundred and sixty-five grains of fine silver, and one-twelfth, or fifteen grains of alloy. **Standard weight and fineness.**

(*2*) The other silver coins shall be of proportionate weight and of the same fineness :

Provided that, in the making of silver coins, a remedy shall be allowed of an amount not exceeding the following, namely :—

	Remedy in weight.	Remedy in fineness.
Rupee .. Half-rupee ..	Five-thousandths ..	Two-thousandths.
[6][Quarter-rupee	Seven-thousandths ..	Three-thousandths.]

Nickel Coinage.

[7][**6.** The following nickel coins only shall be coined at the Mint for issue under the authority of the [1][Central Government], namely : **Nickel coins.**

[8][an eight anna, a four-anna, a two-anna and a one-anna piece].

1 Subs. by the A. O. for "G. G. in C.".
2 Subs. by the A. O. for "Gazette of India".
3 The words "or eight-anna piece" rep. by the Indian Coinage (Amendment) Act, 1919 (21 of 1919), s. 2.
4 The words "or four-anna piece" rep. by s. 2, *ibid.*
5 The words "and (*d*) an eighth of a rupee, or two-anna piece" rep. by the Indian Coinage (Amendment) Act, 1918 (4 of 1918), s. 2.
6 Subs. for the original items by s. 3, *ibid.*
7 Subs. for the original s. 6 by s. 4, *ibid.*
8 Subs. by s. 3 of Act 21 of 1919, for the words "a two anna piece and a one-anna piece".

(*Nickel Coinage. Bronze Coinage. Dimensions and Designs of Coins. Legal Tender.*)

Standard weight.

7. The standard weight of the [1][eight-anna, four-anna, two-anna, and one-anna pieces shall be one hundred and twenty, one hundred and five, ninety, and sixty grains Troy, respectively] :

Provided that, in the making of nickel coin, a remedy shall be allowed of an amount not exceeding one-fortieth in weight.

Bronze Coinage.

Bronze coins.

[2]8. The following bronze coins only shall be coined at the Mint for issue under the authority of the [3][Central Government], namely :—

(*a*) a pice, or quarter-anna ;

(*b*) a half-pice, or one-eighth of an anna ; and

(*c*) a pie, being one-third of a pice, or one-twelfth of an anna.

Standard weight and composition.

9. (*1*) The standard weight of the pice shall be seventy-five grains Troy, and the other bronze coins shall be of proportionate weight.

(*2*) Bronze coins shall be coined from a mixed metal consisting of copper, tin and zinc :

Provided that, in the making of bronze coins, a remedy shall be allowed of an amount not exceeding one-fortieth in weight.

Dimensions and Designs of Coins.

Power to direct coining, and to prescribe dimensions and designs.

10. (*1*) The [3][Central Government] may, by notification[4] in the [5][Official Gazette],—

(*a*) direct the coining and issuing of all coins referred to in sections 4, 6 and 8, and

(*b*) determine the dimensions of, and designs for, such coins.

(*2*) Until the [3][Central Government] otherwise determines by notification under sub-section (*1*), the dimensions and designs of the silver coins coined under this Act shall be those prescribed for the like silver coins under the [6]Indian Coinage Act, 1870, at the time of the commencement of this Act. XXIII of 1870.

Legal Tender.

Demonetization of sovereign and half-sovereign.

[7][11. Gold coins, coined at His Majesty's Royal Mint in England or at any mint established in pursuance of a proclamation of His Majesty as a branch of His Majesty's Royal Mint, shall not be legal tender in British

1 Subs. by the Indian Coinage (Amendment) Act, 1919 (21 of 1919), s. 4, for the original words.

2 For legal tender of bronze coins coined outside British India, *see* the Bronze Coin (Legal Tender) Act, 1918 (22 of 1918).

3 Subs. by the A. O. for "G. G. in C.".

4 For notifications issued under this section, *see* Gen. R. and O.

5 Subs. by the A. O. for "Gazette of India".

6 Rep. by this Act.

7 Subs. by the Reserve Bank of India Act, 1934 (2 of 1934), s. 59, for the section which had been subs. for the original s. 11 by the Currency Act, 1927 (4 of 1927), s. 2.

India in payment or on account, but such coins shall be received by the Reserve Bank of India at its offices, branches and agencies in India at the bullion value of such coins calculated at the rate of 8.47512 grains Troy of fine gold per rupee.]

12. (*1*) The rupee and half-rupee shall be a legal tender in payment or on account : Silver coin when a legal tender.

Provided that the coin—

(*a*) has not lost in weight so as to be more than two per cent. below standard weight, and

(*b*) has not been defaced.

(*2*) The quarter-rupee [1] * * * shall be a legal tender in payment or on account for any sum not exceeding one rupee :

Provided that the coin—

(*a*) has not lost in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, and

(*b*) has not been defaced.

[2][**13.** [3][The eight-anna, four-anna, two-anna,] and one-anna nickel coins specified in section 6 shall be a legal tender in payment or on account for any sum not exceeding one rupee at the rate of [4][two, four,] eight and sixteen for a rupee, respectively.] Nickel coin when a legal tender.

14. The bronze coins specified in section 8 shall be a legal tender in payment or on account for any sum not exceeding one rupee at the following rates, respectively, namely :— Bronze coin when a legal tender.

(*a*) the pice at the rate of sixty-four for a rupee, or four for an anna ;

(*b*) the half-pice at the rate of one hundred and twenty-eight for a rupee or eight for an anna ; and

(*c*) the pie at the rate of one hundred and ninety-two for a rupee, or twelve for an anna.

15. (*1*) (*a*) All silver coin of the weight and standard specified in Acts No. XVII of 1835,[5] No. XXI of 1838,[6] No. XIII of 1862[5] and the Indian Coinage Act, 1870,[7] and Coin made under former Acts.

XXIII of 1870.

1 The words "and eighth of a rupee" rep. by the Indian Coinage (Amendment) Act, 1918 (4 of 1918), s. 6.

2 Subs. for the original s 13 by s. 7, *ibid*

3 Subs. by the Indian Coinage (Amendment) Act, 1919 (21 of 1919), s. 5, for "The two-anna".

4 Ins. by s. 5, *ibid.*

5 Rep. by the Indian Coinage Act, 1870 (23 of 1870).

6 Rep. by Act 13 of 1862.

7 Rep. by this Act.

(*Legal Tender. Diminished, Defaced and Counterfeit Coins.*)

(*b*) all copper coin of the weight specified in Acts No. XXI of 1835,[1] No. XXII of 1844,[2] No. XIII of 1862[1] and the Indian Coinage Act, 1870,[3] XXIII of 1870.

which may have been issued since the passing of those Acts respectively, and declared by those Acts respectively to be a legal tender, shall, [4][subject only to the provisions of section 15A and] in the case of silver coin to the provisos contained in section 12 of this Act in so far as such provisos apply to like coins under this Act, continue to be a legal tender for the amounts for which the like silver and bronze coins are a legal tender under this Act respectively.

(*2*) All double pice copper coins which may have been issued under the Acts specified in sub-section (*1*), clause (*b*), shall continue to be a legal tender in payment or on account for any sum not exceeding one rupee at the rate of thirty-two for a rupee or two for an anna.

Power to call in coin.

[5][**15A**. Notwithstanding anything contained in section 12, section 13, section 14 or section 15, the [6][Central Government] may, by notification in the [7][Official Gazette], call in, with effect from such date as may be specified in the notification, any coin, of whatever date or denomination, referred to in any of those sections other than the rupee and half-rupee referred to in sub-section (*1*) of section 12, and on and from the date so specified such coin shall cease to be a legal tender save at a Government currency office :

Provided that such coin shall continue to be a legal tender also at Government treasuries until the expiry of such further period, not being less than twelve months, as the [6][Central Government] may fix by the notification.]

Diminished, Defaced and Counterfeit [8]* *Coins.*

Power to certain persons to cut diminished or defaced silver coins.

16. Where any silver coin which has been coined and issued under the authority of the [6][Central Government] is tendered to any person [9]authorised by the [6][Central Government] [10]* * * to act under this section, and such person has reason to believe that the coin—

(*a*) has been diminished in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, or

(*b*) has been defaced,

he shall, by himself or another, cut or break the coin.

---

1 Rep. by the Indian Coinage Act, 1870 (23 of 1870).
2 Rep. by Act 13 of 1862
3 Rep. by this Act.
4 Subs. by the Indian Coinage (Amendment) Act, 1924 (10 of 1924), s. 2, for "notwithstanding anything contained in this Act or in any Act hereby repealed, but subject".
5 S. 15A ins. by s. 3, *ibid.*
6 Subs. by the A. O. for "G. G. in C.".
7 Subs. by the A. O. for "Gazette of India".
8 The word "*Silver*" rep. by the Indian Coinage (Amendment) Act, 1919 (21 of 1919), s. 6 (*1*).
9 For persons so authorised, *see* Gen. R. and O.
10 The words "or by the L. G." rep. by the A. O

(*Diminished, Defaced and Counterfeit Coins.*)

17. A person cutting or breaking coin under the provisions of clause (*a*) of section 16 shall observe the following procedure, namely :— Procedure in regard to coin cut under section 16 (*a*).

(*a*) if the coin has been diminished in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, but not more than such further percentage as may be prescribed in this behalf, he shall either return the pieces to the person tendering the coin, or, if such person so requests, shall receive and pay for the coin at such rates as may be prescribed in this behalf ; and

(*b*) if the coin has been diminished in weight so as to be more than such further percentage below standard weight so prescribed as aforesaid, he shall return the pieces to the person tendering the coin, who shall bear the loss caused by such cutting or breaking.

18. A person cutting or breaking coin under the provisions of clause (*b*) of section 16 shall observe the following procedure, namely :— Procedure in regard to coin cut under section 16 (*b*).

(*a*) if such person has reason to believe that the coin has been fraudulently defaced, he shall return the pieces to the person tendering the coin, who shall bear the loss caused by such cutting or breaking ;

(*b*) if such person has not reason to believe that the coin has been fraudulently defaced, he shall receive and pay for the coin at its nominal value.

Explanation.—For the purposes of this section a coin which there is reason to believe has been defaced by sweating shall be deemed to have been fraudulently defaced.

19. If a coin is liable to be cut or broken under the provisions of both clause (*a*) and clause (*b*) of section 16, the person cutting or breaking the coin shall deal with it,— Procedure in regard to coin which is liable to be cut under both clause (*a*) and clause (*b*) of section 16.

(*a*) if he has reason to believe that the coin has been fraudulently defaced, under clause (*a*) of section 18, and

(*b*) in other cases, under section 17.

20. Where any silver [1][or nickel] coin purporting to be coined or issued under the authority of the [2][Central Government] is tendered to any person[3] authorised by the [2][Central Government] [4]* * * to act under this section, and such person has reason to believe that the coin is counterfeit, he shall by himself or another cut or break the coin, and may at his Power to certain persons to cut counterfeit silver or nickel coin and

1 Ins. by the Indian Coinage (Amendment) Act, 1919 (21 of 1919), s. 6 (*2*).
2 Subs. by the A. O. for "G. G. in C."
3 For persons so authorised, *see* Gen. R. and O.
4 The words "or by the L. G." rep. by the A. O.

(Diminished, Defaced and Counterfeit Coins. Supplemental Provisions)

procedure in regard to coin so cut.

discretion either return the pieces to the tenderer, who shall bear the loss caused by such cutting or breaking, or [1][in the case of silver coin] receive and pay for the coin according to the value of the silver bullion contained in it

Supplemental Provisions.

Power to make rules

21 (*1*) The [2][Central Government] may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) reduce the amount of remedy allowed by sections 5, 7 and 9 in the case of any coin ;

(*b*) provide for the guidance of persons authorised to cut or break coin under sections 16 and 20 ;

(*c*) determine the percentage of diminution in weight below standard weight not being less in any case than two per cent which shall be the limit of reasonable wear ;

(*d*) prescribe the further percentage referred to in clause (*a*) of section 17, and the rates at which payments shall be made in the case of coins falling under the same clause [3]*

[3]* * * * * * *

(*3*) Every such rule shall be published in the [4][Official Gazette], and on such publication shall have effect as if enacted in this Act

Bar of suits.

22 No suit or other proceeding shall lie against any person in respect of anything in good faith done, or intended to be done, under or in pursuance of the provisions of this Act.

Saving of making of other coins at Mints.

23. Nothing in this Act shall be deemed to prohibit or restrict the making at the Mint of coins intended for issue as money by the Government of any territories beyond the limits of British India.

Saving of copper coins

24. [5]* * * Copper coins of such descriptions as at the time of the commencement of this Act may be coined at the Mint for issue under the authority of the [2][Central Government] may [6]* * * continue to be so coined until such time as the [2][Central Government] may by notification in the [4][Official Gazette] otherwise direct, and all copper coins so coined shall

---

1 Ins. by the Indian Coinage (Amendment) Act, 1919 (21 of 1919), s. 6 (*2*).

2 Subs. by the A. O. for "G G. in C.".

3 The word "and" and clause (*e*) rep. by the Currency Act, 1927 (4 of 1927), s. 2.

4 Subs. by the A. O for "Gazette of India".

5 The words "The Acts mentioned in the schedule are hereby repealed to the extent specified in the last column thereof : Provided that" rep by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

6 The words "notwithstanding the repeal of the said Acts" rep., *ibid.*

(*Supplemental Provisions. The Schedule.*)

be a legal tender in payment or on account for the amounts for which bronze coins of corresponding nominal value are a legal tender under this Act

---

THE SCHEDULE.—[*Enactments repealed.*] *Rep by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II*

INDEX.

	PAGE.
Alienation—*see* Punjab Alienation of Land Act, 1900	523
Amending Act, 1901	538
Amending Act, 1903	559
Ancient Monuments Preservation Act, 1904	615
Arbitration—*see* Indian Arbitration Act, 1899	477
Central Provinces Court of Wards Act, 1899	490
Cess—*see* Indian Tea Cess Act, 1903	594
Church of Scotland Kirk Sessions Act, 1899	489
Code of Criminal Procedure, 1898	9
Coinage—*see* Indian Coinage Act, 1906	643
Court of Wards—*see* Central Provinces Court of Wards Act, 1899	490
Criminal Procedure—*see* Code of Criminal Procedure, 1898	9
Defence—*see* Indian Works of Defence Act, 1903	575
Extradition—*see* Indian Extradition Act, 1903	602
Foreign Marriage—*see* Indian Foreign Marriage Act, 1903	600
Glanders and Farcy Act, 1899	485
Government Buildings Act, 1899	475
Imperial Library (Indentures Validation) Act, 1902	547
Importation—*see* Live-stock Importation Act, 1898	409
Indentures Validation—*see* Imperial Library (Indentures Validation) Act, 1902.	547
Indian Arbitration Act, 1899	477
Indian Coinage Act, 1906	643
Indian Extradition Act, 1903	602
Indian Foreign Marriage Act, 1903	600
Indian Insolvency Rules Act, 1898	410
Indian Post Office Act, 1898	379
Indian Railway Board Act, 1905	642
Indian Stamp Act, 1899	411
Indian Tea Cess Act, 1903	594
Indian Tolls (Army) Act, 1901	533
Indian Tramways Act, 1902	558
Indian Universities Act, 1904	627
Indian Works of Defence Act, 1903	575
Insolvency—*see* Indian Insolvency Rules Act, 1898	410
Lepers Act, 1898	1
Live-stock Importation Act, 1898	409

PAGE.

Monuments Preservation—*see* Ancient Monuments Preservation Act, 1904 615
Post Office—*see* Indian Post Office Act, 1898 379
Prisoners Act, 1900 504
Punjab Alienation of Land Act, 1900 523
Railway Board—*see* Indian Railway Board Act, 1905 642
Stamp—*see* Indian Stamp Act, 1899 411
Tea Cess—*see* Indian Tea Cess Act, 1903 594
Tolls—*see* Indian Tolls (Army) Act, 1901 533
Tramways—*see* Indian Tramways Act, 1902 558
Universities—*see* Indian Universities Act, 1904 627
Victoria Memorial Act, 1903 598
Works of Defence—*see* Indian Works of Defence Act, 1903 . . 575

L42RO—4,002—4-8-38—GIPS

PRESIDENT'S
SECRETARIAT

LIBRARY